

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
NORTH SHORE GAS COMPANY,)
) No. 07-0241
Proposed general increase in)
natural gas rates.)
-----))
THE PEOPLES GAS, LIGHT & COKE)
COMPANY,)
) No. 07-0242
Proposed general increase in)
natural gas rates.)

Chicago, Illinois
September 10, 2007

Met pursuant to notice at 9:30 a.m.

BEFORE:
DAVID GILBERT and EVE MORAN,
Administrative Law Judges.

APPEARANCES :

FOLEY & LARDNER, LLP, by
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21 Appearing for the City of Chicago.

22 SULLIVAN REPORTING COMPANY, by
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1		<u>I</u>	<u>N</u>	<u>D</u>	<u>E</u>	<u>X</u>			
2	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>direct</u>	<u>cross</u>	<u>Examiner</u>			
3	ILZE RUKIS								
4		90	96						
5	SALVATORE FIORELLA		99					105	
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1	<u>E X H I B I T S</u>		
2	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
3	NORH SHORE & PEOPLES GAS		
	IR 1.0, 2.0, 3.0		95/172
4	SF-1.0, SF2.0, SF-2.0		95
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6	STAFF CROSS		
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1 JUDGE GILBERT: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 07-0241 and 07-0242.

4 Can I have the appearances for the
5 record. If anyone appearing in only one of those
6 dockets -- I don't know if anyone is, but if you
7 are, please so indicate.

8 How are we doing in Springfield? Can
9 you hear us? Anyone there?

10 A VOICE: Yes, we can.

11 (Discussion off the record.)

12 JUDGE GILBERT: Let's start over here with
13 Mr. Feeley.

14 MR. FEELEY: Representing Staff of the Illinois
15 Commerce Commission, John Feeley, Carmen Fosco and
16 Arshia Javaherian, Illinois Commerce Commission,
17 160 North LaSalle Street, Suite C-800, Chicago,
18 Illinois 60601.

19 MS. SODERNA: Julie Soderna representing the
20 Citizens Utility Board, 208 South LaSalle, Suite
21 1760, Chicago, Illinois 60604.

22 MS. BUGEL: Faith Bugel representing the

1 Environmental Law and Policy Center, 35 East Wacker
2 Drive, Suite 1300, Chicago, Illinois 60601.

3 MR. MOORE: Representing the retail gas
4 suppliers, Steven Moore of the law firm of Rowland
5 and Moore, 200 West Superior Street, Suite 400,
6 Chicago, Illinois 60610.

7 MR. STRAUSS: Appearing on behalf of the Utility
8 Workers Union of America, Local 18007, and good
9 morning, your Honors. My name is Scott Strauss.
10 I'm from the law firm of Spiegel & McDiarmid in
11 Washington, D.C., 1333 New Hampshire Avenue,
12 Northwest. My ZIP code is 20036, and I'm appearing
13 pursuant to a petition for special leave that was
14 previously granted.

15 I'm joined this morning by my colleague
16 Ruben Gomez of the same firm who has filed a
17 petition for leave to appear in this proceeding
18 last week with your Honors.

19 MS. LUSSON: On behalf of the People of the
20 State of Illinois, Karen Lusson, 100 West Randolph,
21 11th Floor, Chicago, Illinois 60601.

22 MR. BALOUGH: Good morning. Appearing on behalf

1 of the Multiut Corporation, Richard C. Balough, 53
2 West Jackson Boulevard, Suite 906, Chicago,
3 Illinois 60604.

4 MR. JOLLY: Appearing on behalf of the City of
5 Chicago in the Peoples Gas case only, Ronald D.
6 Jolly, J. Mark Powell. Our address is 30 North
7 LaSalle, Suite 900, Chicago, Illinois 60602.

8 And also Conrad R. Reddick, 1015 Crest
9 Street, Wheaton, Illinois 60187.

10 MR. ROBERTSON: Appearing on behalf of the
11 Illinois Industrial Energy Consumers, Eric
12 Robertson, Lueders, Robertson and Konzen,
13 PO Box 735, 1939 Delmar, Granite City, Illinois
14 62040.

15 MR. BAILEY: Koby Bailey appearing on behalf of
16 Nicor Advanced Energy, 2019 Corporate Lane, Suite
17 159, Naperville, Illinois 60535.

18 MS. O'BRIEN: Appearing on behalf of Nicor
19 Advanced Energy, Angela D. O'Brien of the law firm
20 of Mayer, Brown LLP, 71 South Wacker, Chicago,
21 Illinois 60606.

22 MR. RICH: Good morning.

1 Appearing on behalf of Constellation New
2 Energy Gas Division, LLC, I'm Randall S. Rich of
3 the law firm of Bracewell and Giuliani, 2000 K
4 Street, Northwest, Washington, D.C., 20006.

5 We submitted a motion to participate in
6 pro hac vice last week.

7 MR. RATNASWAMY: Good morning. John Ratnaswamy
8 and Christopher Zibart on behalf of the People Gas,
9 Light and Coke Company and North Shore Gas Company,
10 Foley and Lardner, LLP, 321 North Clark Street
11 Suite 2800, Chicago, Illinois 60610.

12 MR. HOUSE: Emmitt House of the law firm of
13 Gonzalez, Saggio and Harlan, 35 East Wacker, Suite
14 500, 60601.

15 I'm also -- I'd to also enter an
16 appearance on behalf of Timothy Wright, III, and
17 Jerome Moroca of the same law firm, and we're
18 appearing of the Peoples Gas, Light and Coke
19 Company and North Shore Gas Company.

20 JUDGE MORAN: Are there any other appearances?

21 Is anyone appearing by telephone?

22 No?

1 Then I guess those are all the
2 appearances for the record.

3 The first order of business that we want
4 to clear up, there was a petition to intervene of
5 Vanguard Energy Services, LLC. That petition was
6 filed quite some time ago. We have not received
7 any objections.

8 Are there any objections today?

9 With that, the petition to intervene of
10 Vanguard is allowed.

11 The second order of business is the
12 motion to appear pro hac vice by Randall Rich.
13 Mr. Rich, I have this motion in front of me, and
14 there's only one matter that I need to clarify with
15 you and that's pursuant to our rules, and that is
16 whether the petitioning attorney's home state
17 grants leave to Illinois attorneys in similar
18 situations.

19 MR. RICH: I believe that's correct, your Honor.

20 JUDGE MORAN: Okay.

21 MR. RICH: I'm not 100 percent certain, but I
22 believe that's correct.

1 Certainly, attorneys in Illinois
2 practice before the Federal Energy Regulatory
3 Commission where I typically practice.

4 JUDGE MORAN: And I believe that I've ruled
5 basically on similar petitions from your
6 jurisdiction.

7 MR. RICH: Thank you, your Honor.

8 JUDGE MORAN: Thank you.

9 That motion is granted.

10 MS. BUGEL: Your Honors, one other housekeeping
11 matter. I'm not certain ELPC's petition to
12 intervene was ever ruled on.

13 JUDGE MORAN: Excuse me. Which?

14 MS. BUGEL: Environmental Law and Policy
15 Center's. Ours was filed sometime ago as well, but
16 it did come after our last in-person conference.

17 JUDGE MORAN: Okay. If you filed that, we have
18 not received any objection.

19 Are there any objections today?

20 Hearing none, the petition to intervene
21 of ELPC, which is the Environmental Law and Policy
22 Center, is granted.

1 Are there any other petitions that might
2 be outstanding?

3 MR. STRAUSS: Yes, your Honor.

4 One petition filed by my colleague
5 Ruben Gomez for leave to appear in this proceeding
6 was submitted last week.

7 JUDGE MORAN: Okay. And is that an appearance
8 pro hac vice?

9 MR. STRAUSS: Yes, your Honor.

10 JUDGE MORAN: Okay. And what jurisdiction are
11 you from?

12 MS. GOMEZ: District of Columbia, your Honor.

13 JUDGE MORAN: Okay. So I think we've already
14 ruled that the District of Columbia grants leave to
15 Illinois attorneys to appear in similar states and,
16 therefore, your request is also granted.

17 JUDGE GILBERT: There are two outstanding
18 motions from the Attorney General's office to
19 strike.

20 MS. LUSSON: Yes, your Honor.

21 JUDGE GILBERT: We got those so late on Friday,
22 that the two of us really haven't had a chance to

1 talk about how to set up some kind of response
2 interval for that. And maybe we can just do that
3 orally, but we're not going to do that right now.

4 MS. LUSSON: Okay.

5 JUDGE GILBERT: So we need to talk about how we
6 want to handle it. Witness is up Wednesday.

7 MR. RATNASWAMY: Your Honor --

8 JUDGE GILBERT: We'll come up with a game plan
9 today on that.

10 MR. RATNASWAMY: I was just going to suggest
11 we're prepared to file written responses this
12 morning, if that's the way you want to go with the
13 schedule.

14 JUDGE GILBERT: Okay. Is that something that
15 someone can be doing right now while you're
16 participating here?

17 MR. RATNASWAMY: Yes.

18 JUDGE GILBERT: Okay.

19 MR. RATNASWAMY: As long as they're reading
20 their A-notes (phonetic).

21 JUDGE GILBERT: All right. Why don't you go
22 ahead and do that.

1 MS. LUSSON: Your Honor, we would like to move
2 then to reply then by close of business Tuesday
3 since the witnesses are up on Wednesday.

4 JUDGE GILBERT: Mr. Ratnaswamy, when today do
5 you think you'd be ready to give us something?

6 MR. RATNASWAMY: I'm sorry?

7 JUDGE GILBERT: What time today do you think
8 you'd be ready to give us something.

9 MR. RATNASWAMY: It would be before noon, I
10 believe.

11 JUDGE GILBERT: Okay. Well then before noon
12 tomorrow.

13 MS. LUSSON: Okay.

14 JUDGE MORAN: Well, then let's begin with the
15 substantive part of this hearing.

16 And I believe, from the schedule that
17 we've been provided, the first witness is a Company
18 witness and that's Ms. Rukis.

19 MR. RATNASWAMY: That's correct, your Honor.

20 JUDGE MORAN: Did I pronounce your name
21 correctly?

22 THE WITNESS: Yes.

1 JUDGE MORAN: Thank you.

2 MR. RATNASWAMY: Your Honor, could I just -- I

3 handed out an updated schedule this morning. I

4 have two further updates and two amplifications.

5 JUDGE MORAN: Okay. Please. And this is

6 updated one takes account of City's changes?

7 MR. RATNASWAMY: Yes.

8 JUDGE MORAN: Okay.

9 MR. RATNASWAMY: Well, except for the one this

10 morning.

11 JUDGE MORAN: All right.

12 MR. RATNASWAMY: On the second witness,

13 Mr. Fiorella, the staff, although they have not

14 scheduled cross time, as such, plan to move a data

15 request response into evidence during the cross of

16 Mr. Fiorella.

17 JUDGE MORAN: Okay. So that should take about

18 five minutes.

19 MR. RATNASWAMY: The fourth witness, Mr. Doerk,

20 CUB has indicated, although previously scheduled 15

21 minutes, that now they do not plan to cross-examine

22 Mr. Doerk.

1 JUDGE MORAN: Okay.

2 MR. RATNASWAMY: Third, should we proceed more
3 rapidly than the aggregate estimates suggest, we do
4 have a stand-by witness available for today, and
5 Union local 18007 witness Mr. Gennett.

6 JUDGE MORAN: Okay.

7 MR. RATNASWAMY: And then Witness No. 8, which
8 is the first witness tomorrow, Mr. Puracchio, the
9 City has indicated, although they previously
10 scheduled some time, they now do not plan to
11 cross-examine Mr. Puracchio.

12 Those are all the updates I have.

13 JUDGE MORAN: Thank you.

14 JUDGE GILBERT: Regarding the data request that
15 would be, I guess, offered as a cross exhibit to
16 Mr. Fiorella?

17 MR. FEELEY: Yes.

18 JUDGE GILBERT: Will there be any objection to
19 admission of that?

20 MR. RATNASWAMY: Not from the utilities.

21 JUDGE GILBERT: Any objection anticipated from
22 anyone?

1 MR. FEELEY: Nobody else has seen it.

2 JUDGE GILBERT: Oh. Nobody has what?

3 MR. FEELEY: Only the Company knows what the

4 DRs. I haven't talked -- the other parties don't

5 know what it is, so...

6 JUDGE GILBERT: Oh, they haven't seen it yet?

7 MR. FEELEY: No. I don't expect they would.

8 MR. RATNASWAMY: It was served in the ordinary

9 course of discovery, but the fact that that

10 particular one is intended to be moved into

11 evidence is not something that the staff probably

12 noticed to other people.

13 JUDGE GILBERT: Okay.

14 MR. JOLLY: Your Honors, I have one additional

15 change in the schedule.

16 The City will not have any

17 cross-examination for Mr. Borgard. We had ten

18 minutes down.

19 JUDGE MORAN: Okay. So you're taking your ten

20 minutes away from Mr. Borgard.

21 MR. JOLLY: Right.

22 JUDGE MORAN: Okay.

1 MS. LUSSON: And I have alteration, too, as long
2 as we're doing that.

3 I previously indicated that the AG had
4 30 minutes. I wish to modify that to five minutes.

5 JUDGE MORAN: And that's for which witness?

6 MS. LUSSON: Mr. Amen. I'm sorry.

7 JUDGE MORAN: Okay.

8 MS. LUSSON: And I would take that 25 minutes
9 and possibly add it to my 20 minute estimate for
10 Mr. Borgard.

11 JUDGE MORAN: Okay. So you're going to add an
12 additional --

13 MS. LUSSON: 25 minutes to Mr. Borgard.

14 JUDGE MORAN: In addition to the 20 that's
15 reflected?

16 MS. LUSSON: Yes, please.

17 JUDGE MORAN: Okay. All right.

18 Are there any other types of scheduling
19 matters? If not, then let's proceed.

20 And are you ready to put on your
21 witness.

22 MR. ZIBART: Oh, yes. Yes.

1 JUDGE MORAN: Great. Thank you.

2 The utility's first witness is

3 Ms. Rukis.

4 MR. ZIBART: Ms. Rukis, would you please state

5 and spell your name for the record?

6 MS. ILZE RUKIS: Ilze Rukis, I-l-z-e Rukis,

7 R-u-k-i-s.

8 MR. ZIBART: Okay.

9 JUDGE MORAN: We need to swear in the witnesses.

10 In fact, all the witnesses that are here

11 that are going to testify today, would you please

12 raise your right hand and let me swear you all in.

13 (Witnesses sworn)

14 JUDGE MORAN: Thank you.

15 Proceed. I'm sorry.

16 ILZE RUKIS,

17 called as a witness herein, having been first duly

18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY

21 MR. ZIBART:

22 Q. Ms. Rukis, by whom are you employed?

1 **A.** Peoples Gas, Light and Coke Company and
2 North Shore Companies.

3 **Q.** Ms. Rukis, has written direct testimony
4 been prepared by you or under your direction and
5 control for submission in Commerce Commission
6 Docket 07-0241 and 07-0242?

7 **A.** Yes.

8 **Q.** And do you have in front of you a document
9 that's been marked for identification North Shore
10 Exhibit IR 1.0?

11 **A.** Yes.

12 **Q.** Is that a true and correct copy of your
13 written direct testimony in the North Shore docket?

14 **A.** Yes.

15 **Q.** And attached to that document, are there
16 three attachments labeled NS Exhibit IR 1.1, 1.2
17 and 1.3?

18 **A.** Yes.

19 **Q.** And do you also have in front of you a
20 document that's been marked for identification
21 Peoples Gas Exhibit IR 1.0?

22 **A.** Yes.

1 **Q.** Is that a true and correct copy of your
2 written direct testimony in the Peoples docket?

3 **A.** Yes.

4 **Q.** And attached to that document, are there
5 three attachments labeled PGL Exhibit IR 1.1, 1.2
6 and 1.3?

7 **A.** Yes.

8 **Q.** Ms. Rukis, has written rebuttal testimony
9 also been prepared by you or under your direction
10 and control for submission in Commission Dockets
11 07-241 (sic) and 07-242 (sic)?

12 **A.** Yes.

13 **Q.** Do you have in front of you a document
14 that's been marked for identification
15 North Shore/Peoples Gas Exhibit IR 2.0?

16 **A.** Yes.

17 **Q.** And is that a true and correct copy of your
18 written rebuttal testimony in the consolidated
19 dockets?

20 **A.** Yes.

21 **Q.** And attached to that document, are there
22 three attachments -- I'm sorry, two attachments

1 labeled NS PGL Exhibit IR 2.1 and 2.2?

2 **A.** Yes.

3 **Q.** And has written surrebuttal testimony also
4 been prepared by you or under your direction and
5 control for submission in Commission Dockets 07-241
6 and 07-242?

7 **A.** Yes.

8 **Q.** Do you have in front of you a document
9 that's been marked for identification
10 North Shore/Peoples Gas Exhibit IR 3.0?

11 **A.** Yes.

12 **Q.** And is that a true and correct copy of your
13 written surrebuttal testimony in the consolidated
14 dockets?

15 **A.** Yes.

16 **Q.** Do you have any changes or corrections that
17 need to be made to your testimony before it's
18 entered into evidence?

19 **A.** No, I do not.

20 **Q.** So if I were to ask you the questions set
21 forth in these documents marked IR 1.0, IR 2.0
22 and -- I'm sorry, North Shore Exhibit IR 1.0,

1 Peoples Gas Exhibit IR 1.0, North Shore/Peoples Gas
2 Exhibit IR 2.0, and North Shore/Peoples Gas
3 Exhibit IR 3.0, would you give the answers set
4 forth in those documents?

5 A. Yes.

6 Q. And do you intend that these four documents
7 will comprise your sworn testimony in this docket?

8 A. Yes.

9 MR. ZIBART: Those are all the questions I have
10 for Ms. Rukis on direct.

11 And if it pleases the judges, we can
12 move those into evidence subject to
13 cross-examination.

14 JUDGE MORAN: Yes.

15 Are there any objections to the motion
16 to admit the exhibits as described, that being
17 IR 1.0 for each of Peoples and North Shore cases,
18 IR 2.0 jointly and IR 3.0 jointly?

19 Hearing no objection, those will be
20 admitted subject to cross. And I assume you're
21 tendering your witness.

22 MR. ZIBART: Yes, your Honor. We're moving the

1 exhibits into evidence with their attachments,
2 which would include 1.1, 1.2, 1.3, 2.1, and 2.2.

3 JUDGE MORAN: I understand, and, yes, I think I
4 meant to include all of those.

5 (Whereupon Exhibit Nos. North
6 Shore and Peoples IR 1.0, North
7 Shore/Peoples 2.0 and North Shore
8 and Peoples 3.0 were
9 admitted into evidence as
10 of this date.)

11 JUDGE MORAN: Well, it seems like the first
12 person on the list that has cross-examination for
13 Ms. Rukis is the Attorney General's office.

14 MS. LUSSON: Ms. Bugel, one of the counsel, is
15 going --

16 MS. BUGEL: If it's all right with your Honors.

17 JUDGE MORAN: That's fine.

18 MS. BUGEL: I'll go ahead.

19 JUDGE MORAN: That's fine.

20

21

22

1 CROSS-EXAMINATION

2 BY

3 MS. BUGEL:

4 Q. Ms. Rukis, my name is Faith Bugel. Again,
5 I'm representing Environmental Law and Policy
6 Center. I just have two questions for you today,
7 so this will be very short.

8 Generally, your testimony covers the
9 energy efficiency program proposed by Peoples and
10 North Shore; is that correct?

11 A. Yes, it is.

12 Q. What mechanisms do you think are built into
13 the energy efficiency program proposal that would
14 assure that program expenditures will be prudent?

15 A. I believe that both structure and process
16 of the proposed program will accomplish that.

17 First, you have governance board, which
18 has a constituency of many diverse members. All of
19 them have a stated interest in providing
20 efficient -- energy efficient programs to
21 customers.

22 Second, the Company does -- companies do

1 not have a direct control of that board. It will
2 be the board who provides direction of the goals
3 and budgets.

4 Secondly, it will have a contract
5 administrator that will provide oversight to the
6 contracts awarded to winning bidders that will be
7 providing these programs. It will be the function
8 of that contract administrator to ensure compliance
9 and that programs are being provided within budget.

10 I expect that contract administrator to
11 also provide periodic reports to the governance
12 board and to the Commission, if they so desire.

13 One of the recommendations I make in my
14 testimony is that one of first things that the
15 governance board should accomplish is a market
16 potential study which will further ensure the best
17 and wisest use of available resources by
18 identifying the opportunities to use the funds.

19 You also will have a separate fiscal
20 agent function that will be not under the control
21 of the companies, but at the direction of the
22 governance board and the contracted administrator.

1 And, finally, you will have a bidding
2 process that will ensure that we get the
3 lowest-cost programs and that a program evaluator
4 that will have evaluation at the end of each year
5 how funds were used, what were the savings achieved
6 and reports submitted to the Commission, if so
7 desired, and to the governance board.

8 **Q.** You discussed the governance board.

9 Isn't it true if this program is
10 approved by the Commission, the governance board is
11 the ultimately accountable to the Commission?

12 **A.** Yes, the way the governance board was
13 structured, it was meant to address concerns that
14 it be separate and apart from the direct control of
15 the companies.

16 Therefore, the governance board was
17 created precisely to have a broad base of
18 constituents.

19 I've mentioned in my direct testimony
20 the members of the board that would be in charge of
21 that. They would have the direction, as I said, of
22 setting the goals and directions and ultimately the

1 be responsible for the programs.

2 MS. BUGEL: Thank you.

3 I have no further questions.

4 CROSS-EXAMINATION

5 BY

6 MS. LUSSON:

7 Q. Good morning, Ms. Rukis.

8 A. Good morning.

9 Q. My name is Karen Lusson. I'm from the
10 Attorney General's office. I just have a few
11 clarifying questions about your direct and
12 surrebuttal testimonies.

13 If you'd look at Page 5 of your
14 surrebuttal.

15 A. Yes.

16 Q. At Lines (sic) 90, you refer to the
17 government's structure that was agreed to between
18 the companies and other interested stakeholders.

19 Is your -- is it your testimony then
20 that the governance board is to be in control as to
21 how energy efficiency programs and spending
22 actually occur?

1 **A.** Yes.

2 **Q.** And at Line 95, you refer to utility
3 conflicts or disincentives due to lost sales that
4 reduce distribution revenues and you seem to say
5 that these concerns are meant to be addressed by
6 using the governance board's structure.

7 And am I interpreting that testimony
8 correctly?

9 **A.** Yes.

10 **Q.** Are you satisfied that the governance board
11 structure will be effective in ensuring that the
12 utility not frustrate the effectiveness of future
13 energy efficiency programs due to any inherent
14 disincentive that the utility might have to promote
15 energy efficiency programs or run an efficient
16 energy efficiency program?

17 **A.** Yes. As I said, since the utility does not
18 have direct control, I agree with that.

19 **Q.** Okay. Let's just talk briefly about who's
20 responsible for whether (sic) the governance board
21 and also the issue of Commission oversight.

22 Under the proposed structure, a

1 Peoples Gas employee would serve as the fiscal
2 agent, I think I've indicated?

3 A. For the initial start-up, yes.

4 Q. And while that agent would not be making
5 decisions on his or her own as to whether a
6 particular invoice should be paid, that fiscal
7 agent will be charged as a company employee with
8 alerting the board to any perceived anomalies,
9 inconsistencies or other unorthodox billing detail;
10 is that correct?

11 A. Yes.

12 Q. And it would be up to the board then to act
13 on any perceived or expressed concern that the
14 fiscal agent has made to the board; is that right?

15 A. Yes.

16 Q. And, again, Peoples would have that voting
17 member on the board; is that right?

18 A. A voting member, yes.

19 Q. And in your Exhibit 1.1 of your direct
20 testimony, which is the layout of the proposed
21 structure, the visual.

22 A. It's in here somewhere.

1 Yes.

2 **Q.** In that exhibit, you point out, legally,
3 Peoples will sign contracts.

4 Would that include employment contracts,
5 subcontractors contracts, et cetera?

6 **A.** I believe that would be with the program
7 administrators.

8 If the program administrators choose to
9 have subcontractors as a part of their proposal or
10 in their program delivery, it would be the program
11 administrator who'd have the liability for that.

12 **Q.** Okay. But the program administrators, just
13 to be clear, contract administrator and program
14 evaluator would work at the direction of the
15 governance board?

16 **A.** Yes.

17 **Q.** In --

18 **A.** Yes.

19 **Q.** At Line 100 of your surrebuttal, you state
20 that -- that's again on Page 5.

21 **A.** Just a moment.

22 **Q.** Given the proposed structure, it's

1 unreasonable to hold the Company responsible since
2 the governance board consists of other stakeholders
3 who provide controlling oversight and direction to
4 the energy efficiency program.

5 Do you see that there?

6 **A.** Excuse me.

7 **Q.** This is at Line 100 of Page 5 of your
8 surrebuttal.

9 **A.** Yes.

10 **Q.** Now, as I understand your testimony, it's
11 your view that the utility should not be held
12 responsible or accountable for energy efficiency
13 programs and spendings -- spending because the
14 utility would have no singular independent control
15 over those programs and spending with the
16 governance board?

17 **A.** Yes.

18 **Q.** For purposes of my next question, let's
19 assume that, for the moment, the Commission has
20 approved your -- the Company's request that seven
21 and a half million in ratepayer funds be set aside
22 for energy efficiency program.

1 Would you agree that notwithstanding the
2 governance board's structure, that because the
3 Commission maintains authority over Peoples and
4 North Shore and authority over the level of rates
5 charged, that the Commission maintains the ability
6 to review how the program is running through the
7 reporting process that you've described in your
8 direct testimony?

9 **A.** Yes.

10 **Q.** And your direct testimony also talks about
11 the role of the program evaluator -- I think you
12 touched upon that in response to Ms. Bugel -- who
13 would perform periodic audits of the programs
14 against established performance criteria and
15 prepare annual reports for the board as well as a
16 periodic independent third-party review separate
17 and apart from the program evaluator's reports; is
18 that correct?

19 **A.** Yes.

20 **Q.** Now, these reports could be filed with the
21 Commission, couldn't they?

22 **A.** Yes.

1 **Q.** And they could be exhibits within a next
2 rate case is that also correct?

3 **A.** Yes.

4 MS. LUSSON: Okay. Thank you, Ms. Rukis.

5 I have no further questions.

6 JUDGE MORAN: I just have a quick question.

7 EXAMINATION

8 BY

9 JUDGE MORAN:

10 **Q.** My concern here is administrative costs. I
11 mean, with any kind of program, there's
12 administrative costs.

13 Are the members of this governance board
14 going to receive a salary or are they going to do
15 this voluntarily or how do you perceive that?

16 **A.** My understanding that the members of the
17 governance board itself are not going to be
18 reimbursed.

19 **Q.** Okay. So it'll be more a voluntary
20 service?

21 **A.** Yes.

22 JUDGE MORAN: Okay. Thank you.

1 Is there any redirect?

2 MR. ZIBART: No, I have no questions on

3 redirect.

4 JUDGE MORAN: And no one has else has any cross

5 for Ms. Rukis?

6 Okay. Then you're excused.

7 THE WITNESS: Thank you.

8 JUDGE MORAN: And thank you very much.

9 Okay. The next witness is also a

10 Company witness.

11 And, Mr. Ratnaswamy, are you ready?

12 MR. RATNASWAMY: Yes.

13 JUDGE MORAN: Okay.

14 MR. RATNASWAMY: The Peoples Gas, Light and Coke

15 Company and North Shore Gas Company call

16 Mr. Salvatore Fiorella as a witness. I believe he

17 was already sworn.

18 JUDGE MORAN: You want to introduce your

19 witness.

20

21

22

1 SALVATORE FIORELLA,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. RATNASWAMY:

7 **Q.** Mr. Fiorella, could you please state your
8 name and spell your name for the record.

9 **A.** Salvatore Fiorella, S-a-l-v-a-t-o-r-e,
10 Fiorella, F-i-o-r-e-l-l-a.

11 **Q.** And at the time that you prepared your
12 prefiled direct testimony in this proceeding, what
13 was your employer and your business address?

14 **A.** I was employed, at the time of the direct
15 filing, by the Peoples Gas, Light and Coke Company.

16 **Q.** In what capacity were you employed?

17 **A.** I was employed as the manager of state
18 regulatory affairs for both Peoples and
19 North Shore.

20 **Q.** Okay. What was your business address at
21 that time?

22 **A.** 130 East Randolph, Chicago, Illinois,

1 60601.

2 Q. And is it correct that since you prepared
3 your prefiled direct testimony, you have retired
4 from Peoples Gas?

5 A. Yes, sir.

6 Q. And is it correct that you prepared or had
7 prepared under your supervision and control direct
8 testimony on behalf of each of the Peoples Gas
9 Light and Coke Company and North Shore Gas Company
10 with the exhibits numbered as North Shore Exhibit
11 SF-1.0 and 1.1 and Peoples Gas Exhibits SF-1.0 and
12 1.1?

13 A. Yes, sir.

14 Q. And if I were to ask you the questions that
15 appear in those two direct testimonies, would you
16 give the answers that are set forth therein?

17 A. Yes.

18 Q. Are they true and correct?

19 A. Yes, sir.

20 Q. Mr. Fiorella, is it also correct that you
21 prepared on behalf of Peoples Gas and North Shore
22 rebuttal testimony, the exhibits numbered as

1 North Shore Peoples Gas Exhibit SF-2.0 with a total
2 of 28 attachments and North Shore numbered SF-2.1
3 through 2.14, and as to Peoples numbered SF-2.1
4 through 2.14?

5 A. Yes, sir.

6 Q. And if I were to ask you the questions that
7 appear in the narrative portion of that testimony,
8 would you give the answers that appear there?

9 A. Yes, I would.

10 Q. Are those answers true and correct?

11 A. Yes, sir.

12 Q. Mr. Fiorella, is it also correct that you
13 prepared or had prepared under your supervision and
14 control supplemental rebuttal testimony numbered as
15 North Shore Peoples Gas Exhibit SF-3.0?

16 A. Yes.

17 Q. And if I asked you the questions that
18 appear in that testimony, would you give the
19 answers that are stated therein?

20 A. Yes, I would.

21 Q. And are those answers true and correct?

22 A. Yes, they are.

1 **Q.** Finally, Mr. Fiorella, did you prepare or
2 have prepared under your supervision and control
3 surrebuttal testimony on behalf of North Shore and
4 Peoples Gas numbered as Exhibit SF-4.0 with a total
5 of 13 attachments consisting, as to North Shore,
6 with -- beginning with SF-4.1 through 4.6, and as
7 to Peoples, SF-4.1 through 4.7?

8 **A.** Yes, sir.

9 **Q.** All right. And if I were to ask you the
10 questions that appear in the narrative portion of
11 that testimony, would you give the answers that are
12 stated therein?

13 **A.** Yes, I would.

14 **Q.** And are those answers true and correct?

15 **A.** Yes, they are.

16 MR. RATNASWAMY: Your Honor, I would move into
17 admission the exhibits we have discussed. And
18 unless your Honor wishes it, I will not name all 50
19 or so again.

20 JUDGE MORAN: They're already on record.

21 Is there any objection to any of those
22 exhibits or attachments as described by

1 Mr. Ratnaswamy and Mr. Fiorella?

2 Hearing none, all of those exhibits just

3 as described are admitted.

4 And are you ready to tender your witness

5 for cross?

6 (Whereupon, North Shore/Peoples

7 Exhibit Nos. SF-1.0, SF-2.0,

8 SF-3.0 and SF-4.0 were admitted

9 into evidence as of this date.)

10 MR. RATNASWAMY: Yes, your Honor.

11 JUDGE MORAN: Thank you.

12 And who wishes to begin?

13 MS. SODERNA: Julie Soderna on behalf of the

14 Citizens Utility Board. I'll start.

15 CROSS-EXAMINATION

16 BY

17 MS. SODERNA:

18 **Q.** Mr. Good morning, Mr. Fiorella.

19 **A.** Good morning.

20 **Q.** I'm going to start with some questions on

21 depreciation reserve issue, and I'm going to start

22 refer -- refer you to Page 10 of your rebuttal

1 testimony at Lines 217 to 219 where you state that
2 your proposed adjustment simply asks the Commission
3 to substitute the 2007 depreciation reserve value
4 for the 2006 value.

5 Is that what you said there?

6 MR. RATNASWAMY: Ms. Soderna, you said you were.
7 Actually, the first word is "his."

8 MS. SODERNA: Right. His proposed adjustment.

9 THE WITNESS: Yes.

10 BY MS. SODERNA:

11 Q. But the Company's proposed to adjust the
12 actual plant in service as of September 30th, 2006
13 with fiscal 2007 capital additions, correct?

14 A. The Companies have proposed a 2007
15 adjustment to reflect 2007 fiscal additions.

16 Q. And by these adjustments, aren't the
17 Companies asking the Commission to substitute the
18 2007 plant value for the 2006 value?

19 A. No.

20 Q. How would you characterize it?

21 A. Just what I had said earlier.

22 We're asking for the Commission to

1 include in rate base the Company's fiscal 2007
2 capital additions. That does not supplant a plant
3 balance.

4 In conjunction with that, we've made
5 adjustments for, you know, depreciation and
6 reserve, you know, deferred taxes to be consistent.

7 Q. Okay. Well, we'll refer to Lines 220 to
8 221 of your rebuttal where you state, If this type
9 of adjustment was proper, the utilities would be
10 able to claim other costs and expenses based on
11 2007 balances that would have resulted in rate
12 relief, referring to Mr. Effron's adjustments; is
13 that right?

14 A. Yes.

15 Q. But in your testimony, you did not cite any
16 other rate base components to 2007 balances that
17 you could have claimed but did not; isn't that
18 true?

19 A. We made a couple other rate base
20 adjustments.

21 Q. But in the context of this testimony, you
22 didn't cite to any other -- an example of the type

1 of rate base components --

2 A. Oh. No.

3 Q. -- that you could have claimed, but did
4 not?

5 A. No, I didn't give any examples, right.
6 That's what your question is. That's correct.

7 Q. And you did not quantify the effect -- you
8 did not quantify the effect of restating any of the
9 other rate base components because you didn't cite
10 to any, correct?

11 A. Right. I -- yes, I -- the point was that I
12 was trying to say that he was changing the test
13 year and I didn't go through a whole -- you know,
14 do that, you know, come up with all kinds of
15 adjustments, what they would be, if that's your
16 question.

17 Q. Okay. We're going to move to your
18 surrebuttal testimony, Page 8. Line 161 is where
19 you begin talking about depreciation reserve,
20 correct.

21 Are you there?

22 A. Yes.

1 **Q.** And further down at Lines 167 to 171, you
2 take issue with two of the Commission cases cited
3 by GCI witness Mr. Effron in his rebuttal, correct?

4 **A.** Yes.

5 **Q.** And you -- your point there was that those
6 two cases cited by Mr. Effron in those examples,
7 there was no increase in net plant, and that
8 justified the Commission's determination not to
9 adjust the depreciation reserve, right?

10 **A.** Yeah, pretty much.

11 **Q.** You did not, however, take issue with the
12 primary cases cited by Mr. Effron in his rebuttal
13 testimony which were Docket Nos. 01-0432, the
14 Illinois Power Company, and 03-0009, Union Electric
15 Company, both delivery service cases, did you?

16 **A.** No.

17 **Q.** And in those cases, the companies did have
18 a net increase in plant, right?

19 **A.** I'd have to look. I don't recall off the
20 top of my head.

21 **Q.** Okay. Are you familiar enough to know
22 whether the Commission did except adjustments to

1 recognize post-test year growth in the accumulated
2 reserve for depreciation and amortization as
3 offsets to adjustments for post-test years
4 additions to plant in service in those cases?

5 **A.** You know, at the time I was doing my
6 testimony, I went back and looked at all the
7 orders, but I don't recall right now what was in
8 those orders unless I had them in front of me.

9 **Q.** Okay. Moving on in your surrebuttal at
10 Lines 172 to 174, same page, Page 8, you again make
11 reference to -- or you make reference to the
12 Commonwealth Edison delivery service case, the last
13 delivery service case, 05-0597, correct?

14 **A.** Yes.

15 **Q.** And in that case, you note that the ICC
16 rejected Mr. Effron's proposed adjustments to
17 depreciation reserve, right?

18 **A.** Yes.

19 **Q.** Are you aware in that docket number,
20 05-0597, the Commission accepted an adjustment to
21 increase revenues by approximately 13 million in
22 association with the post-test year plant additions

1 related to serving new customers?

2 **A.** No. But, again, you know, the point I'm
3 making here is that it was a situation similar to
4 Peoples where I think Mr. Effron and the Commission
5 staff has accepted that there is growth, because
6 they both accepted the fiscal '07 additions of \$96
7 million. So everybody's kind of agreeing there's
8 growth.

9 So with that, I -- I think these cases
10 are on point, and it's the case in point where this
11 type of adjustment, you know, is not appropriate.

12 **Q.** Okay. Going back to my previous question
13 regarding ComEd's -- the plant additions related to
14 serving new customers, I know that you said that
15 you're not familiar with that particular
16 circumstance in that case; but in these rate
17 proceedings, the current rate proceedings, Peoples
18 Gas and North Shore are including plant additions
19 to serve new customers in their adjustments for
20 post-test year plant additions, right?

21 **A.** Peoples' service territory is limited. I
22 mean, I don't know what kind of growth they might

1 be looking at, but...

2 Q. Well, that doesn't really answer the
3 question.

4 Are you familiar whether the companies
5 are including plant additions to serve new
6 customers in their adjustments for the post-test
7 year plant additions?

8 A. I don't know exactly what the \$95 million
9 attributable to, I mean, as far as new customers.

10 I know, you know, we annually spend a
11 number like that just to maintain our facilities.
12 It's an ongoing investment in our infrastructure.
13 I mean, Peoples spends 75 to \$110 million every
14 year.

15 Q. And at least some portion of that
16 expenditure relates to new business?

17 A. Yeah, I have to agree with -- yeah. Yes --

18 Q. Okay.

19 A. -- there are some new customers.

20 Q. And in this case, the companies have not
21 proposed increase revenues for the sales to new
22 customers being served by those plant additions,

1 have they?

2 **A.** I don't know. I would think the sales
3 model would track that, but I'm not specifically
4 sure.

5 **Q.** Okay. Next, I'm going to ask you a few
6 questions on invested capital tax. I'm going to
7 refer to your rebuttal testimony, Page 15, at Lines
8 322 to 324 where you note that you presented a
9 revised calculation of the pro forma invested
10 capital tax?

11 **A.** Yes.

12 **Q.** And associated --

13 **A.** Okay. Yes.

14 **Q.** -- correct?

15 And the -- the Company's pro forma
16 invested capital tax assumes that the companies get
17 100 percent of their requested rate increases,
18 right?

19 **A.** Yes, at the time of the -- on direct, I
20 sponsored the invested capital tax based on a
21 hundred percent of the rev req at that time. On
22 rebuttal, I sponsored --

1 **Q.** Rev req being revenue requirement?

2 **A.** Revenue requirement.

3 On rebuttal, I've revised that number

4 downward and sponsored an invested capital tax

5 based on that -- hundred percent of that number,

6 like you said --

7 **Q.** Right.

8 **A.** -- so, yes.

9 **Q.** And has the Company stated in its response

10 to Staff Data Request DLH 26.01, because this is a

11 derivative adjustment if the approved rate

12 increases are less than requested, the pro forma

13 invested capital expense will have to be

14 readjusted, correct?

15 **A.** Yes, I agree.

16 **Q.** Okay.

17 **A.** Hm-hmm.

18 **Q.** Is it possible that an increase in income

19 resulting from an increase in rates, if the Company

20 were to be granted a rate increase in this case,

21 could also lead to an increase in the dividends

22 that the companies pay out to their shareholders?

1 MR. RATNASWAMY: I object to the relevance of
2 the question. Also, I don't see anywhere it's
3 within the scope of his testimony.

4 MS. SODERNA: Well --

5 JUDGE MORAN: Ms. Soderna?

6 MS. SODERNA: Mr. Fiorella does quantify the
7 exact -- investment capital tax and this goes to
8 other potentially contributing factors to the
9 determination of the investment capital tax.

10 JUDGE MORAN: I'll allow the answer.

11 THE WITNESS: I'd like to refer to a response I
12 gave, DLH 18.01. It -- the response to this, I
13 think, is the same question.

14 The additional operating income
15 requirement was calculated based on the Company's
16 pro forma 5644 capital structure they maintained
17 throughout the period of calculation. Therefore,
18 no explicit dividend adjustment was performed.

19 Application of the Company's pro forma
20 5644 capital structure to the entire year's results
21 contains an inherent dividend policy of maintaining
22 the pro forma capital structure at all times and,

1 thus, explicit modeling of the dividend under these
2 conditions would lead to the same results as
3 already provided.

4 So the dividends would have no impact on
5 the test year, so that's why we've included the
6 revised investment capital tax at each stage of the
7 of the game.

8 BY MS. SODERNA:

9 Q. Okay. I'm not sure that that really answer
10 answered my question.

11 A. Okay.

12 Q. Let me ask it again.

13 A. Yeah, ask it again. I'm not...

14 Q. I want to keep it simple first --

15 A. Okay.

16 Q. -- that is it possible that an increase in
17 income results from an increase in rate could lead
18 to an increase in the dividends that the companies
19 pay?

20 MR. RATNASWAMY: I would now object on the
21 grounds it calls for speculation --

22 JUDGE MORAN: Yeah, I'm wondering myself.

1 Are you asking, is this a generic
2 question or is this a question for the companies?
3 MS. SODERNA: Is that sort of a general question
4 regarding --
5 JUDGE MORAN: Not specifically to the companies?
6 It's like a hypothetical --
7 MS. SODERNA: No, it's specific to the
8 companies.
9 THE WITNESS: I don't know about dividend policy
10 and how it works within the company. I'm not the
11 proper witness.
12 MS. SODERNA: Okay. That's all I have.
13 Thank you very much.
14 THE WITNESS: Thanks. Thank you.
15 JUDGE MORAN: Okay. And who else has cross?
16 Staff?
17 MR. FEELEY: Staff has no cross, but we have two
18 cross exhibits.
19 JUDGE MORAN: Oh, that's right. Things to do.
20
21
22

1 (Whereupon, Staff Cross
2 Exhibit Nos. 1 and 2 were
3 marked for identification
4 as of this date.)

5 CROSS-EXAMINATION

6 BY

7 MR. FEELEY:

8 Q. Mr. Fiorella, do you have in front of you
9 what's been marked for identification as ICC Staff
10 Cross Exhibit No. 1?

11 It's the Company's data request response
12 to DLH 26.01.

13 A. Yes, sir.

14 Q. Do you also have in front of you what's
15 been marked for identification as ICC Staff Cross
16 Exhibit No. 2? It's Company's response to DLH
17 18.01.

18 A. Yes.

19 Q. And are you responsible for the responses
20 to those data requests?

21 A. Yes.

22 MR. FEELEY: Okay.

1 At this time, Staff would move to admit
2 into evidence ICC Staff Cross Exhibit No. 1. It's
3 the Company's response to DLH 26.01. And ICC Staff
4 Cross Exhibit No. 2. It's Company's response to
5 DLH 18.01.

6 JUDGE MORAN: Okay. I'm not sure that that
7 objection goes to the remaining parties. I think
8 it is -- and I think that could have been
9 introduced during regular cross-examination.

10 (Pause.)

11 JUDGE MORAN: There may be one matter that could
12 be raised as an objection by other parties.

13 Have parties seen this exhibit?

14 MR. FEELEY: Well, data request responses, in
15 general, are served on all the parties.

16 JUDGE MORAN: Yeah -- all the parties, have they
17 not?

18 MR. FEELEY: Yeah.

19 JUDGE MORAN: Okay. I see no problem in
20 admitting these cross exhibits in the testimony of
21 Mr. Fiorella, so they are admitted.

22 MR. FEELEY: Thank you.

1 That's all we have for Mr. Fiorella.

2 (Whereupon, Staff Cross
3 Exhibit Nos. 1 and 2 were
4 admitted into evidence as
5 of this date.)

6 JUDGE MORAN: Okay. And who else has
7 cross-examination?

8 MR. REDDICK: Conrad Reddick with the City of
9 Chicago, your Honor.

10 JUDGE MORAN: Okay. Great.

11 CROSS-EXAMINATION

12 BY

13 MR. REDDICK:

14 **Q.** Good morning, Mr. Fiorella.

15 **A.** Mr. Reddick.

16 **Q.** Am I okay on the microphone? I can't tell.
17 More? Better?

18 Okay. I'd like to go back to the
19 investment capital tax that Ms. Soderna was talking
20 with you about, see if I can clarify for myself
21 your answer.

22 If I understood the answer you gave,

1 I'll just give you a series of statements that
2 reflect my understanding and you can correct me if
3 I'm wrong.

4 The increase in revenues coming from a
5 rate increase approved by the Commission could
6 theoretically, if the company changed its policy,
7 lead to an increase in dividends payout as a matter
8 of simple mathematics?

9 **A.** I guess -- yes, I guess that could happen.

10 **Q.** And -- and what is the basis for the
11 investment capital tax?

12 **A.** I believe it's the capitalization of the
13 company and it's .008 times that base.

14 **Q.** And that would include retained earnings?

15 **A.** Yes, sir.

16 **Q.** So if the Company paid out more in
17 dividends, it would have less retained earnings?

18 **A.** That's right.

19 **Q.** And I believe your answer was that the
20 Company's position is to maintain the capital
21 structure that you've-- in that case. So that in
22 order to do that, if there were a change in

1 dividends, your test year number would be the same?

2 MR. RATNASWAMY: I'm going to object that I
3 think that's beyond the scope of his testimony.
4 I'm not sure it's an accurate characterization of
5 what he said earlier either.

6 JUDGE MORAN: I'm wondering if there's a better
7 witness that that question could be put to.

8 MR. REDDICK: There probably is. I'll see if I
9 can find it.

10 BY MR. REDDICK:

11 Q. If I understood your answer, you're saying
12 that although a change in the dividends paid out
13 could change the basis on which the invested
14 capital tax is computed, the Company's position in
15 this case is to maintain the proposed capital
16 structure.

17 Therefore, it would not change the
18 Company's capitalization or the invested capital
19 tax?

20 A. Yes.

21 Q. Okay.

22 A. I mean, I can tell you I do know we rolled

1 in our --

2 Q. I think you answered my question.

3 A. Okay. That's fine.

4 JUDGE MORAN: I think -- allow the witness to

5 finish what they're saying.

6 MR. REDDICK: I was afraid more complications,

7 but I'm happy to let him go.

8 THE WITNESS: That's fine.

9 JUDGE MORAN: Okay.

10 THE WITNESS: Thank you.

11 BY MR. REDDICK:

12 Q. In your surrebuttal testimony, you

13 discussed certain prior Commission decisions. And

14 I believe you agreed with Mr. Effron at

15 approximately Line 165 of your surrebuttal that the

16 circumstances of each individual case should

17 control whether or not there is an adjustment for

18 accumulated depreciation reserves.

19 A. I agreed with Mr. Effron that each case

20 should be judged by its own merit.

21 Q. Yes.

22 A. But not in conjunction with those other

1 orders. I mean, it was like a generic question,
2 and I said, yeah, every case should be judged on
3 its own merits.

4 Q. Well, yeah. I'm referring to your
5 testimony now, not to any cases unless you cited
6 cases here.

7 So that is a correct restatement of your
8 testimony at Lines 167?

9 A. At 167, I say, yes, every case should be
10 judged -- should be decided upon the particular
11 facts and/or circumstances of that case.

12 Q. Now, specifically, would you agree that any
13 pro forma adjustments for capital additions or
14 depreciation should be reflective of the costs and
15 revenues that will be in place during the period
16 the approved rates are in place?

17 A. Can you read that back, please.

18 Q. Sure.

19 Do you agree that the effect of any
20 approved pro forma additions to rate base or
21 depreciation adjustments should be reflective of
22 the costs and revenues that will be expected for

1 the period during which the approved rates are in
2 place?

3 **A.** Generally, that sounds acceptable
4 rate-making.

5 **Q.** So in this case, since you both have the
6 same standard, you simply disagreed with Mr. Effron
7 whether the circumstances of this case warrant a
8 depreciation adjustment?

9 **A.** I don't know if that characterization is
10 accurate.

11 The specifics of this case are that we
12 have an adjustment to additions. We've made an
13 adjustment to depreciation relative to those
14 additions. We've made an adjustment to the reserve
15 relative to those additions. We've made an
16 adjustment to deferred taxes relative to those
17 additions. End of story.

18 Mr. Effron is making an adjustment to
19 the reserve for depreciation for a whole 'nother
20 year for plant that was in service 50 years ago.
21 It's not appropriate. It's violating the test
22 year, and that's my argument.

1 **Q.** I understand your argument. The question
2 is whether you're disagreeing with Mr. Effron is
3 whether the facts of this case warrant that
4 adjustment that he's proposing.

5 **A.** The facts of this case do not warrant that
6 adjustment.

7 **Q.** So the answer is yes?

8 JUDGE MORAN: Yes to what? I mean, I'm lost.

9 BY MR. REDDICK:

10 **Q.** Referring to the schedules that you've --
11 the proposed post-year (sic) capital additions for
12 Peoples Gas in this case are several times the
13 capital additions the Company has made over the
14 period of the last ten years; is that correct?

15 **A.** No.

16 **Q.** It is not?

17 **A.** It's not. They're not several times, no.

18 **Q.** What are the numbers?

19 **A.** The additions we're proposing that we've
20 agreed to in this case are about \$96 million.
21 That's after we've accepted staff's and Effron's
22 pared back -- pared back CAPX -- capital

1 expenditure number.

2 We proposed 104 million. We've now kind
3 of agreed on a number of about 96. That's,
4 generally speaking, what we spend every year. So
5 it's not dramatically increased. Or I don't know
6 what your --

7 **Q.** Is that a gross number or a net number?

8 **A.** What do you mean by gross or net?

9 Expenditures --

10 **Q.** After depreciation.

11 **A.** Oh. Oh, we've had most any -- it's gross.
12 It's not -- if that's your terminology. Capital
13 expenditures is -- are not reflective of
14 depreciation, the 95 million.

15 **Q.** Now, I understand your position on the
16 depreciation for plant already in service, but it
17 is true that over the period of fiscal year 2007,
18 there will be additional depreciation on that
19 plant?

20 **A.** On what plant?

21 **Q.** On the plant that is in service in 2006.

22 **A.** Yes.

1 Q. And in --

2 A. And the test year is 2006.

3 Q. I understand.

4 A. Okay.

5 Q. Can the depreciation attributable to 2007

6 gross plant be calculated from approved

7 depreciation rates, the planned capitalizations in

8 2007 and the 2006 plant in service?

9 A. I'm sorry. Can you read that back?

10 Q. Can you calculate depreciation for 2007

11 based on approved depreciation rates, the planned

12 2007 capital additions and the 2006 gross plant?

13 A. Can I?

14 Q. Can anyone?

15 A. I assume so.

16 I don't know. I mean, I say I could, if

17 you asked me, rough cut, come up with some number.

18 I don't know what you're --

19 Q. Well, you are proposing the Company's --

20 A. I'm sorry. What?

21 Q. You are proposing the Company's figures for

22 plant in service? You're sponsoring that element

1 of the Company's --

2 A. Yes.

3 Q. And you're sponsoring the -- Company's test

4 case for depreciation adjustments?

5 A. Yes, but -- okay. I misunderstood your

6 question, the way you asked it.

7 I thought you're telling me to roll '07

8 and roll '06 and come up with a depreciation

9 number. Is that --

10 Q. Yes.

11 Can you do that?

12 A. Yes.

13 Q. Mathematically, if the Commission approved

14 a pro forma adjustment for depreciation, an

15 adjustment to accumulated depreciation for 2007,

16 that would partly offset the effect of the capital

17 additions you're proposing for 2007, wouldn't it?

18 A. I don't understand your question. Can you

19 read it back, please?

20 Q. If the Commission approved an adjustment to

21 accumulated depreciation for 2007 --

22 A. Okay.

1 Q. -- that would have the effect of partially
2 offsetting the revenue requirement effect of your
3 capital additions for 2007?

4 A. Oh. Yes.

5 Q. Would you agree with Mr. Effron's statement
6 that the largest elements in the determination of
7 rate base are gross plant, accumulated
8 depreciation, and the ADIT?

9 JUDGE MORAN: Do you have a reference for that
10 testimony for Mr. Effron?

11 MR. REDDICK: Effron rebuttal, Line 78.

12 JUDGE MORAN: Okay.

13 THE WITNESS: I'm looking at one of my exhibits
14 to see the numbers to see.

15 Yes, I agree with that statement.

16 MR. REDDICK: A number of my questions were
17 touched on by Ms. Soderna, so let me strike a few
18 things here. If I can have a moment.

19 Excuse me, your Honor. I need to get a
20 piece of paper.

21 JUDGE MORAN: Sure.

22 BY MR. REDDICK:

1 **Q.** Mr. Fiorella, Ms. Soderna discussed with
2 you the Commission decisions in the Illinois Power
3 Docket, 01-0432, and the Union Electric
4 consolidated docket, 03-0008, 0009 and 02-0798.

5 I believe your testimony was that you
6 had referred to those decisions during the
7 preparation of your testimony, but you did not
8 currently recall the holdings in those cases. Is
9 that accurate.

10 **A.** Yeah, that's accurate.

11 **Q.** Would seeing a copy of the decisions
12 refresh your recollection?

13 **A.** Yeah, please.

14 MR. REDDICK: Your Honor?

15 JUDGE MORAN: Are those decisions very lengthy?

16 MR. REDDICK: I'm sorry?

17 JUDGE MORAN: Are those decisions very lengthy?

18 MR. REDDICK: They are, but these are excerpts.

19 JUDGE MORAN: Oh, great. Then that's perfect.

20 And even though they're excerpts, I
21 assume they're excerpts within the full context
22 of --

1 MR. REDDICK: Yes.

2 JUDGE MORAN: Thank you.

3 MR. REDDICK: The entire section of the order.

4 JUDGE MORAN: All right. So that is an
5 explanation of what you are showing the witness.

6 MR. REDDICK: I apologize. I should have done
7 that.

8 JUDGE MORAN: That's okay.

9 MR. RATNASWAMY: Mr. Reddick, do you have for
10 this order on rehearing Page 4?

11 MR. REDDICK: Did I skip a page?

12 MR. RATNASWAMY: Well, it starts in the middle
13 of staff's position and then it has the AG's
14 position.

15 MR. REDDICK: I have it on my computer, if you
16 want. Which order is that, Mr. Ratnaswamy?

17 MR. RATNASWAMY: Order on rehearing dated -- the
18 date is not on these pages.

19 MR. REDDICK: It should be on the first page.

20 MR. RATNASWAMY: It's not.

21 MR. REDDICK: Which case?

22 MR. RATNASWAMY: On 027 -- 02 -- 02-0798,

1 consolidated.

2 MR. REDDICK: Okay.

3 JUDGE MORAN: And now you are showing?

4 MR. REDDICK: No, I'm showing him the entire
5 order.

6 JUDGE MORAN: On?

7 MR. REDDICK: Efron's --

8 JUDGE MORAN: -- computer --

9 MR. REDDICK: -- 03-0008, 9, and the other case
10 on a computer.

11 JUDGE MORAN: I'm wondering, Mr. Reddick, how
12 many more questions do you have for Mr. Fiorella?

13 MR. REDDICK: Five.

14 JUDGE MORAN: Are those questions all pertaining
15 to this particular question that is involving both
16 the reading of orders and computers?

17 MR. REDDICK: I can't say. Possibly, depending
18 on his answer.

19 JUDGE MORAN: Only because as you -- as I think
20 you're becoming aware, it's very difficult to be
21 reading an order in this kind of situation. So I
22 would at least like to give the witness five

1 minutes to be able to do that.

2 So I'm wondering if you could do your
3 other questions and then we can take a break.

4 MR. REDDICK: Well, perhaps we can take a break
5 and I can show him everything I might ask him about
6 and we can --

7 JUDGE MORAN: Okay. Then that's fine. We will
8 break for five minutes in order to enable the
9 cross.

10 (Recess taken.)

11 MR. REDDICK: Thank you, your Honor. I think
12 we've convinced ourselves of the wisdom of
13 approaching at a higher level, so let me attempt to
14 do that.

15 JUDGE MORAN: Okay. That's fine.

16 BY MR. REDDICK:

17 **Q.** In your rebuttal testimony at Line 168, you
18 identified a CILCO docket and a CIPS docket as,
19 quote, the cases cited by GCI witness Efron, end
20 quote, respecting a depreciation adjustment; is
21 that correct?

22 **A.** I'm looking.

1 Rebuttal at 116?

2 **Q.** I have 168.

3 **A.** I have that as capital additions.

4 MR. RATNASWAMY: I think you're talking about
5 his surrebuttal.

6 MR. REDDICK: I'm sorry.

7 THE WITNESS: Oh.

8 JUDGE MORAN: Yeah.

9 Surrebuttal?

10 BY MR. REDDICK:

11 **Q.** Yes.

12 JUDGE MORAN: Yes.

13 THE WITNESS: Okay.

14 Okay. Yes.

15 BY MR. REDDICK:

16 **Q.** Right line, wrong testimony.

17 However, you are aware that those two
18 decisions that you referred to are not the only
19 ones that Mr. Efron discussed in his testimony; is
20 that correct?

21 **A.** Yes.

22 **Q.** In fact, he discussed several such

1 decisions in his rebuttal testimony?

2 A. Yes.

3 Q. And the principal -- or at least the first
4 ones that he mentioned were the Illinois Power's
5 01-0432 case and the consolidated case that
6 included Union Electric of 03-0009; is that
7 correct?

8 A. Yes.

9 Q. And those latter two decisions you chose
10 not to discuss in your surrebuttal, correct?

11 A. Yes.

12 Q. And I believe -- well, I should go back.
13 Let's do some foundation.

14 Having reviewed some of the decisions
15 that were mentioned prior to our break, have you
16 refreshed your recollection at least partially as
17 to the content of those decisions?

18 A. Yes, partially, but I can't tell from
19 looking at those. I think I'd have to do even more
20 research as to testimony as to where the test year
21 was in relation to ours and if it's on the point.

22 I don't think they were and I think the

1 reason I referred to the cases I did is that I
2 thought they were on point.

3 Q. Okay. I'll try to keep it so that you
4 don't have to do that.

5 A. Okay.

6 Q. Doesn't at least one of those cases involve
7 a Commission decision not to approve a pro forma
8 capital addition adjustment because the
9 depreciation over the period that was being
10 requested for the CAPX was larger than the proposed
11 CAPX?

12 A. I think that was the one of the decisions
13 that I referred to in surrebuttal, not one of the
14 ones you just talked about.

15 Q. Okay.

16 A. It was negative plant growth and that was
17 the point.

18 And when they do this case-by-case
19 thing, I argue that it seems they rely on staff and
20 as such --

21 Q. You're opposed to reliance on staff?

22 A. I'm sorry. What?

1 Am I what.

2 **Q.** Withdrawn. Withdrawn.

3 **A.** Oh.

4 **Q.** And I believe, to eliminate the last

5 question, the last case here, I believe you said in

6 response to one of Mrs. Soderna's -- Ms. Soderna's

7 questions that you were not familiar with the

8 revenue adjustment in ComEd case 05-0597?

9 **A.** I don't recall. I'm sure I read it at a

10 point in time, but I don't remember at this point.

11 MR. REDDICK: Okay.

12 Thank you. That's all.

13 JUDGE MORAN: Thank you, Mr. Reddick.

14 And --

15 MS. LUSSON: I have no questions for

16 Mr. Fiorella.

17 JUDGE MORAN: No questions.

18 Okay. Does anybody else have questions

19 for Mr. Fiorella?

20 Okay. You want to do --

21 MR. RATNASWAMY: Can we have a moment?

22 JUDGE MORAN: Redirect on -- sure. Take a

1 minute.

2 (Pause.)

3 JUDGE MORAN: Is there any redirect?

4 MR. RATNASWAMY: Very brief, your Honor.

5 JUDGE MORAN: Okay. Please proceed.

6 REDIRECT EXAMINATION

7 BY

8 MR. RATNASWAMY:

9 Q. Mr. Fiorella, is it correct that you read
10 the testimony of the staff intervenor witnesses who
11 testified on revenue requirement issues in this
12 case?

13 A. Yes.

14 Q. To the best of your recollection, did any
15 staff or intervenor witness at any point in their
16 testimony ever propose that the pro forma capital
17 additions adjustments of utilities be reduced or
18 offset for any alleged revenues coming from
19 customer growth associated with those additions?

20 A. No.

21 MR. RATNASWAMY: No further.

22 JUDGE MORAN: Any recross?

1 Okay. With that, Mr. Fiorella, you are
2 excused.

3 (Pause.)

4 JUDGE MORAN: Okay. The third witness we have
5 up today is another Company witness, Ms. Kallas.
6 And you have been sworn.

7 THE WITNESS: Yes.

8 LINDA KALLAS,
9 called as a witness herein, having been first duly
10 sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY

13 MR. RATNASWAMY:

14 **Q.** Ms. Kallas, could you please state your
15 name and spell your last name for the record.

16 **A.** Linda Kallas, K-a-l-l-a-s.

17 **Q.** Ms. Kallas, is it correct that you prepared
18 or had prepared under your supervision and control
19 direct testimony on behalf of each of the
20 Peoples Gas, Light and Coke Company and North Shore
21 Gas Company consisting of exhibits, as to Peoples,
22 LK-1.0 including attachments through 1.2, and -- so

1 1.0, 1.1, 1.2; and as to North Shore, 1.0, 1.1 and
2 1.2?

3 A. Correct.

4 Q. All right. And if I asked you the
5 questions that appear in the narrative portions of
6 those testimony, would you give the same answers?

7 A. Yes.

8 Q. And are those answers true and correct?

9 A. Yes.

10 Q. Ms. Kallas, is it also correct you prepared
11 rebuttal, combined rebuttal testimony on behalf of
12 the utilities consisting of North Shore and
13 Peoples Gas Exhibits LK-2.0, 2.1-N, 2.1-P, as in
14 Peoples, 2.2-N, 2.2-P and 2.3?

15 A. Correct.

16 Q. All right. And if I asked you the
17 questions that appeared in the narrative testimony,
18 would you give the same answers?

19 A. Yes.

20 Q. And are those answers true and correct?

21 A. Yes.

22 Q. And, finally, is it correct that you

1 prepared or had prepared under your supervision and
2 control surrebuttal testimony on behalf of the
3 utilities identified as North Shore and Peoples Gas
4 Exhibit LMK-3.0?

5 A. Correct.

6 Q. And if I asked you the questions that
7 appeared in those testimony, would you give the
8 same answers?

9 A. Yes, is it.

10 Q. And are they true and correct?

11 A. Yes.

12 MR. RATNASWAMY: All right. Your Honor, I would
13 move the admission of North Shore exhibits LK-1.0,
14 1.1 and 1.2, Peoples LK-1.1.0, 1.1 and 1.2,
15 North Shore and Peoples LK-2.0, 2.1-N, 2.1-P,
16 2.2-N, 2.2-P and 2.3; and, finally, North Shore and
17 Peoples Exhibits LK -- LMK-3.0.

18 JUDGE MORAN: Okay. Are there any objections to
19 the admission of any of those testimonies or
20 attachments?

21 Hearing none, they are admitted subject
22 to any cross.

1 (Whereupon, North Shore/Peoples
2 Exhibit Nos. LK-1, LK-2 and LK-3
3 were admitted into evidence as
4 of this date.)

5 MR. RATNASWAMY: And we would tender Ms. Kallas
6 for cross-examination.

7 JUDGE MORAN: Thank you.

8 MS. SODERNA: I can start.

9 JUDGE MORAN: Very good.

10 Thank you.

11 CROSS-EXAMINATION

12 BY

13 MS. SODERNA:

14 Q. Good morning, Ms. Kallas?

15 A. Good morning.

16 Q. Julie Soderna, and I represent the Citizens
17 Utility Board.

18 I have just a few questions for you on
19 the other post-employment benefits issue. And I'll
20 refer you first to your rebuttal testimony,
21 Page 13, Lines 266 to 268.

22 JUDGE MORAN: I'm sorry. Was that rebuttal?

1 MS. SODERNA: Rebuttal, right.

2 THE WITNESS: I'm sorry. What were the lines

3 again?

4 BY MS. SODERNA:

5 Q. 266 to 268.

6 Actually, the sentence starts on

7 Page 12, Line 265 and continues to Line --

8 A. Okay.

9 Q. -- 269 on Page 13.

10 And I won't reiterate the whole

11 sentence, but in that -- in that testimony, you

12 refer to the Commission's decision in Docket

13 No. 05-0597, Commonwealth Edison's last rate case;

14 is that right?

15 A. Correct.

16 Q. And you state that the Commission did not

17 adjust rate base by the accrued -- I'll call it

18 OPEB (phonetic) liability, right?

19 A. Correct.

20 Q. Did you review the Commission's final order

21 in Docket 05-0597 in making this observation?

22 A. I reviewed -- I don't know if I reviewed

1 the whole order. I -- I looked through it to see
2 if I could find some discussion of that issue.

3 Q. And do you recall if there -- if this was a
4 contested issue in the case?

5 A. I don't believe it was, the liability side.

6 Q. I'm sorry?

7 A. The liability aspect was not.

8 Q. Okay. Was the issue -- was the OPEB issue
9 directly discussed in the Commission's final order?

10 A. I believe related to the expense from prior
11 years other than the test year.

12 Q. The pension expense, correct?

13 A. I'd have to go back and look back.

14 My understanding was it was actually the
15 OPEB expense, but...

16 Q. Okay. I have actually -- I have the orders
17 with me, if this would help you recall.

18 JUDGE MORAN: And can you identify what you're
19 going to be showing the witness?

20 MS. SODERNA: Sure.

21 I'll be showing the witness -- this is
22 the final order in Docket 05-0597, and I'll turn it

1 to the appropriate page, which is 58 of that order.

2 BY MS. SODERNA:

3 Q. I, of course, printed out the entire order
4 for completeness.

5 A. Hopefully --

6 JUDGE MORAN: Good.

7 And your question was?

8 MS. SODERNA: I don't think there was a question
9 pending. I was just going to give her a second to
10 review it.

11 JUDGE MORAN: Okay.

12 BY MS. SODERNA:

13 Q. I just wanted to confirm my understanding
14 that this section of the order is -- actually
15 relates to pension expense, not to the OPEB
16 expense.

17 A. The title talks both, but the actual
18 information -- you're right -- is related to
19 pension.

20 Q. Okay. And, actually, at Page 54 of the
21 Commission order in that case, which you can turn
22 to and I have another sheet here, the Commission

1 itemizes the approved rate base.

2 Do you see that?

3 A. Yes.

4 Q. And under -- the second item under
5 deductions from rate base is operating reserves.

6 Do you see that?

7 A. Yes.

8 Q. And the amount listed is 259,980,000,
9 right?

10 A. Yes.

11 Q. And is this what you based your conclusion
12 that the Commission did not adjust rate base by the
13 accrued OPEB liability on?

14 A. The -- I don't know if it was this
15 particular schedule but it was specifically looking
16 for a deduction for OPEB.

17 Q. And you didn't find one?

18 A. At this level, correct.

19 Q. Okay. Did you analyze the components of
20 the operating reserves as determined by the
21 Commission in this case?

22 A. I would say in the last few weeks, yes. At

1 the time I was preparing this, I had not seen the
2 schedules.

3 Q. Okay. So have you reviewed the -- the
4 Company's Part 285 Schedule B-10 filing?

5 A. Do you have a copy of it?

6 Q. I do.

7 JUDGE MORAN: Which Company's?

8 MS. SODERNA: This is from the ComEd, 05-0597.

9 JUDGE MORAN: Okay. So all these questions --

10 MS. SODERNA: Right.

11 JUDGE MORAN: -- relate to this --

12 MS. SODERNA: That's right. The order I was
13 just showing her and this --

14 JUDGE MORAN: Okay.

15 BY MS. SODERNA:

16 Q. And what I'm about to show the witness
17 the -- it's part of the Company's Part 285 entire
18 filing. It's Schedule B-10. And I'm going to
19 refer you to Page 2. This is all six pages of the
20 schedule.

21 And the first item under description is
22 operating reserves; is that right?

1 **A.** Yes.

2 **Q.** And under operating reserves are three
3 separate items listed: The accumulated provision
4 for injuries and damages, accumulated provision for
5 pensions and benefits and accumulated miscellaneous
6 operating provisions; is that right?

7 **A.** Correct.

8 **Q.** Okay. The first item that -- the amount
9 attributable to the first item, injuries and
10 damages, under jurisdictional rate base, is
11 54,210,000, correct?

12 **A.** Yes.

13 **Q.** And the second item is accumulated
14 provision for pension and benefits, which is
15 205,770,000, right?

16 **A.** Correct.

17 **Q.** And, together, those add up to up to bring
18 the total to what we previously discussed was in
19 the order of 259,980,000 --

20 **A.** Yes.

21 **Q.** -- right?

22 And the second item again is the

1 provision for pensions and benefits. So that
2 includes more than just the OPEB expense, correct?

3 A. Right.

4 MS. SODERNA: Okay. Your Honors, would you like
5 a copy of this?

6 JUDGE MORAN: Well, I'm wondering if you --

7 MS. SODERNA: Should I mark it is as a cross
8 exhibit?

9 JUDGE MORAN: If you --

10 MS. SODERNA: Yeah.

11 JUDGE MORAN: -- intend to have this admitted
12 into the record.

13 MS. SODERNA: Yeah, I actually --

14 JUDGE MORAN: Or --

15 MS. SODERNA: -- I would like to mark it as --

16 JUDGE MORAN: You should still mark it so that
17 there -- the record will reflect --

18 MS. SODERNA: Right.

19 JUDGE MORAN: -- what is being made reference to
20 here.

21 MS. SODERNA: Are we -- how are we marking
22 things? This will be the third cross exhibit.

1 Should it be CUB Cross Exhibit 1 or --

2 JUDGE GILBERT: Yes.

3 JUDGE MORAN: Yes.

4 MS. SODERNA: Want to do it that way?

5 JUDGE MORAN: Hm-hmm.

6 Okay.

7 (Whereupon, CUB Cross Kallas

8 Exhibit No. 1 was

9 marked for identification

10 as of this date.)

11 JUDGE MORAN: It should be CUB Cross Kallas 1.

12 MS. SODERNA: CUB Cross Kallas --

13 JUDGE MORAN: That way, you'll have a clear

14 indication of where that cross exhibit came in on,

15 which witness. And then you can continue to number

16 in sequence, but always include the witness's name.

17 MS. SODERNA: And shall I give one copy to

18 the --

19 JUDGE MORAN: To the court reporter? Yes.

20 Actually, for any type of exhibit like

21 that, you're supposed to have three copies. So if

22 you don't have that, I understand, but I'm throwing

1 that out to the audience for the future.

2 MS. SODERNA: That's actually all the questions
3 I have.

4 I'd like to move for the admission of
5 CUB Cross Exhibit Kallas 1.

6 JUDGE MORAN: Okay. Is there any objection?

7 MR. RATNASWAMY: I -- I'm not sure for what
8 purpose it's being offered. Is it being offered
9 for the truth of everything on all six pages or
10 really --

11 MS. SODERNA: Really, it's just limited to the
12 purposes of the cross-examination, which was to
13 demonstrate -- what was included in the operating
14 reserves number in the Commission's order in
15 05-0597 --

16 MR. RATNASWAMY: In --

17 MS. SODERNA: -- which Ms. Kallas testified that
18 she reviewed and made the statement in her rebuttal
19 testimony.

20 MR. RATNASWAMY: So is --

21 JUDGE MORAN: I'm just -- I'm not clear.

22 Did Ms. Kallas review this particular

1 document or just the order? And maybe I'll put
2 that question to you, Ms. Kallas.

3 THE WITNESS: At the time of my rebuttal
4 testimony, I just reviewed the order.

5 JUDGE MORAN: Okay. At the time of your
6 surrebuttal testimony, did you review anything
7 else?

8 THE WITNESS: I did. I had looked at that. I
9 still wasn't sure what it represented, but I did
10 see that at that point then, the exhibit.

11 JUDGE MORAN: Okay. Counsel, do you have
12 objection or --

13 MR. RATNASWAMY: Well, I'm -- I'm struggling, I
14 guess, in two respects.

15 One is that it's a six-page document
16 with a lot of lines on it. I think we're only
17 really concerned in two lines on Page 2.

18 Also, if -- if -- I mean, if it's -- if
19 it clear that that Line 2 was the deduction for
20 OPEB, then -- I mean, if that's just a fact, you
21 know, we could stipulate to it. I just -- are you
22 able to represent that?

1 MS. SODERNA: I mean, maybe I can ask a couple
2 additional questions and get the -- you know, see
3 if the witness will answer the question then in a
4 way that we don't have to enter the exhibit.

5 BY MS. SODERNA:

6 Q. I mean, is it your understanding that from
7 looking at this schedule, which you said you
8 subsequently reviewed after drafting your
9 testimony, that the accumulated provision for
10 pension and benefits includes more than just the
11 OPEB expense?

12 A. And I can't really say yes for sure without
13 seeing their underlying information, and I did try
14 to go to their 10-K, but, unfortunately, because
15 the information is at Exelon level, I couldn't find
16 specifically ComEd.

17 So I can't a hundred percent say that --
18 what's included in there. I mean, the title might
19 say that, but how much is pension, how much is OPEB
20 I can't tell.

21 Q. Okay. So -- but you do agree that there's
22 some portion of pension expense and some portion of

1 OPEB, so that this accounts for more than just

2 OPEB?

3 **A.** You know, I don't know for sure because
4 depending on how they use that title, it could be
5 an account that would include both. And without
6 having their backup, I can't say.

7 **Q.** So in making your testimony that the
8 Commission did not adjust rate base by the accrued
9 OPEB liability, you can't now be certain that is
10 the case?

11 **A.** That is true.

12 JUDGE MORAN: But you were relying mostly on the
13 order --

14 THE WITNESS: Right.

15 JUDGE MORAN: -- am I correct?

16 THE WITNESS: Right. And it was not discussed
17 in the order.

18 BY MS. SODERNA:

19 **Q.** Right.

20 **A.** So...

21 JUDGE MORAN: And there are features of that
22 order, it seems -- and I don't have the order in

1 front of me, but it seems that there are features
2 of that order that would lead you to conclude that
3 that there's both pension and OPEB. Am I
4 understanding that correct by the title of this?

5 THE WITNESS: The title discussing the expense
6 piece --

7 JUDGE MORAN: Right.

8 THE WITNESS: -- covered both, but it really
9 just talked about pension just based on what I
10 read. There -- it really didn't discuss whether
11 they had deducted liability.

12 So at the time, it didn't seem to --
13 they didn't talk about deducting it. I think there
14 were some rebuttal testimony that said it wasn't
15 addressed.

16 But then when I did review this schedule
17 that's being referred to right now, based on that
18 what it says, I can't be a hundred percent sure
19 that they didn't deduct it, but I don't have enough
20 backup information to tell with certainty either
21 way.

22 JUDGE MORAN: Okay. So -- and when you referred

1 to that schedule --

2 THE WITNESS: Sorry.

3 JUDGE MORAN: -- you're talking about the

4 schedule that's the cross exhibit?

5 THE WITNESS: Yeah, Schedule B-10, but you named

6 it the cross title.

7 MS. SODERNA: CUB Kallas Cross No. 1.

8 JUDGE MORAN: And that is the schedule to the

9 order?

10 MS. SODERNA: That's right.

11 THE WITNESS: Yes.

12 JUDGE MORAN: Okay. All right. So confusion

13 abounds.

14 MR. RATNASWAMY: Okay. I guess, in essence, I

15 would make sort of an offer then. Can we look into

16 this thing? And if you're right, that's an OPEB

17 deduction, then we will stipulate because we don't

18 want to have something here that's wrong.

19 MS. SODERNA: Okay. I just want to clarify

20 that.

21 BY MS. SODERNA:

22 Q. Okay. And on your surrebuttal testimony,

1 though, you did not clarify the -- your testimony
2 with regards to the deduction of OPEB in this
3 05-0597 case; is that correct?

4 **A.** Yes, I did not address it.

5 **Q.** Okay. So you determined -- your
6 determination was made later that -- of your
7 uncertainty about that prior testimony?

8 **A.** Right.

9 JUDGE MORAN: I'm wondering, too.

10 If -- wouldn't this schedule be attached
11 to that order?

12 MS. SODERNA: Well, it's actually part of the
13 Company's 285 required filing.

14 JUDGE MORAN: Oh.

15 MS. SODERNA: So it's in the record, but it
16 isn't attached to the actual order.

17 JUDGE MORAN: I see.

18 MS. SODERNA: It's the supporting documentation
19 for the operating reserves deduction.

20 JUDGE MORAN: And there no schedule in that
21 order that clarifies?

22 MS. SODERNA: No, unfortunately.

1 MR. RATNASWAMY: Again, I don't want to get it
2 wrong. I don't think either one of us wants to get
3 it wrong. So here's a revised suggestion:

4 Maybe -- would it be possible to hold on
5 offering this while we try to check on it? And if
6 we come up with, you know, we're sure one way or
7 the other or do you --

8 MS. SODERNA: That's fine. We can do that. We
9 can discuss it and come to the judges with maybe a
10 compromise.

11 JUDGE MORAN: Absolutely. That's probably the
12 best way to do it.

13 MS. SODERNA: Okay.

14 JUDGE MORAN: Because we don't want to clutter
15 up the record with stuff that isn't necessary. And
16 at the same time, we want to make sure that
17 everything is correct as between the parties.

18 So that's a great idea and we'll move
19 that along.

20 MS. SODERNA: And that's all I have.

21 JUDGE MORAN: Okay. Thank you so much.

22 And, Mr. Jolly, I believe that you have

1 cross for Ms. Kallas?

2 MR. JOLLY: Just a couple questions and that's
3 just a clarification.

4 JUDGE MORAN: Okay.

5 CROSS-EXAMINATION

6 BY

7 MR. JOLLY:

8 Q. I think I might have heard two different
9 things with respect to CUB Cross Kallas Exhibit 1.
10 I thought you had said at one point that
11 you had reviewed that prior to your surrebuttal
12 testimony. Did I mis-hear that?

13 A. Prior to surrebuttal, but not rebuttal.

14 Q. Okay.

15 A. Maybe I didn't understand your point.

16 Q. Okay. So you had reviewed it prior to
17 surrebuttal?

18 A. Yes.

19 Q. And you did not clarify in your surrebuttal
20 testimony that you had subsequently reviewed
21 information that may have affected your rebuttal
22 testimony?

1 **A.** No, because I wasn't sure what that was
2 saying in -- (inaudible).
3 MR. JOLLY: Okay. That's all I have.
4 Thank you.
5 JUDGE MORAN: Okay. Thank you.
6 And --
7 MS. LUSSON: We have no additional cross.
8 JUDGE MORAN: Okay. Is there anyone else that
9 has cross?
10 No. Okay.
11 Do you have questions?
12 JUDGE GILBERT: No.
13 JUDGE MORAN: Okay. There is no cross, but is
14 there any redirect of Ms. Kallas?
15 MR. RATNASWAMY: Oh. No.
16 JUDGE MORAN: No?
17 Okay. Then, Ms. Kallas, you're excused.
18 Thank you so much. And the next witness is also a
19 Company witness.
20 Okay. Now, Mr. Doerk, I've sworn you
21 in, I assume?
22 THE WITNESS: Yes.

1 JUDGE MORAN: Yes?

2 Thank you.

3 MR. ZIBART: May I proceed, your Honor?

4 JUDGE MORAN: Please.

5 EDWARD DOERK,

6 called as a witness herein, having been first duly

7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY

10 MR. ZIBART:

11 Q. Mr. Doerk, will you state and spell your

12 name for the record, please.

13 A. Ed Doerk, D-o-e-r-k.

14 Q. And, Mr. Doerk, by whom are you employed?

15 A. The Peoples Gas, Light and Coke Company.

16 Q. And, Mr. Doerk, has written direct

17 testimony been prepared by you or under your

18 direction and control for submission in Commission

19 Dockets 07-0241 around 07-0242?

20 A. Yes.

21 Q. And do you have in front of you a document

22 that's been marked for identification North Shore

1 Exhibit ED 1.0?

2 A. Yes.

3 Q. Is that a true and correct copy of your
4 written direct testimony in North Shore docket?

5 A. Yes.

6 Q. And attached to that document is an
7 attachment labeled NS Exhibit ED 1.1?

8 A. Yes.

9 Q. And do you also have in front of you that's
10 been marked for identification Peoples Gas
11 Exhibit ED 1.0?

12 A. Correct.

13 Q. And is that a true and correct copy of your
14 written direct testimony in the Peoples docket?

15 A. Yes.

16 Q. And attached to it is an attachment labeled
17 PGL Exhibit ED 1.1?

18 A. Yes.

19 Q. And has written rebuttal testimony also
20 been prepared by you or under your direction and
21 control for submission in the Commission Docket
22 07-0241 and 07-0242?

1 **A.** Yes.

2 **Q.** Do you have in front of you a document
3 that's been marked for identification
4 North Shore/Peoples Gas Exhibit ED 2.0?

5 **A.** Yes.

6 **Q.** Is that a true and correct copy of your
7 written rebuttal testimony in the consolidated
8 dockets?

9 **A.** Yes.

10 **Q.** And are there attached to that document
11 three attachments labeled NS PGL Exhibit ED 2.1-P,
12 2.2-P and 2.3-P?

13 **A.** Yes.

14 **Q.** And has written surrebuttal testimony also
15 been prepared by you or under your direction and
16 control for submission in Commission Docket 07-241
17 and 242?

18 **A.** Yes.

19 **Q.** And do you have in front of you a document
20 that's been marked for identification
21 North Shore/Peoples Gas Exhibit ED 3.0?

22 **A.** Yes.

1 **Q.** Is that a true and correct copy of your
2 written surrebuttal testimony in the consolidated
3 dockets --

4 **A.** Yes.

5 **Q.** -- dockets?

6 Do you have any changes or corrections
7 that need to be made to your testimony before it's
8 entered into evidence?

9 **A.** No, I do not.

10 **Q.** So if I were to ask you the questions set
11 forth in these documents marked North Shore
12 Exhibit ED 1.0, Peoples Gas Exhibit ED 1.0,
13 North Shore/Peoples Gas Exhibit ED 2.0, and
14 North Shore/Peoples Gas Exhibit ED 3.0, would you
15 give the answers set forth in those documents?

16 **A.** Yes.

17 **Q.** And you intend that these four documents
18 will comprise your sworn testimony in this
19 docket --

20 **A.** Yes.

21 **Q.** -- and these dockets.

22 MR. ZIBART: I have no further questions on

1 direct, and we would move -- subject to
2 cross-examination move into evidence North Shore
3 Exhibit ED 1.0 and 1.1, Peoples Gas Exhibit ED 1.0
4 and 1.1, North Shore and Peoples Exhibit ED 2.0,
5 2.1-P, 2.2-P and 2.3-P, and North Shore/Peoples
6 Exhibit ED 3.0.

7 JUDGE MORAN: Okay. Is there any objection to
8 any of those exhibits being admitted into the
9 record or any of the attachments?

10 Hearing none, they will be admitted to
11 subject to cross.

12 And who wishes to start?

13 (Whereupon, North Shore/Peoples
14 Exhibit Nos. ED 1.0, 2.0 and 3.0
15 were admitted into evidence as
16 of this date.)

17 MS. LUSSON: I'll go first.

18 JUDGE MORAN: Ms. Lusson, that'd be great.
19 Thank you.

20

21

22

1 CROSS-EXAMINATION

2 BY

3 MS. LUSSON:

4 Q. Good morning, Mr. Doerk.

5 A. Good morning.

6 Q. My name's Karen Lusson.

7 If you could turn to Page 7 of your
8 direct testimony.

9 MR. ZIBART: I'm sorry. His?

10 MS. LUSSON: Direct Peoples?

11 MR. ZIBART: Peoples?

12 MS. LUSSON: Yes.

13 BY MS. LUSSON:

14 Q. You describe the process by which Peoples
15 decides to make capital investments. And as I
16 understand your testimony, the Company prepares the
17 capital expenditures budget for the upcoming fiscal
18 year --

19 MR. ZIBART: I'm sorry, Ms. Lusson. The witness
20 is still actually looking for the document.

21 BY MS. LUSSON:

22 Q. Oh, I'm sorry.

1 **A.** Okay.

2 **Q.** And that's the portion beginning at
3 Line 138, Page 7.

4 And as I understand that process, the
5 Company prepares a capital expenditures budget for
6 the upcoming fiscal year setting forth
7 recommendations for capital expenditures for major
8 categories of plant; is that true?

9 **A.** That's true.

10 **Q.** And is it correct that distribution mains
11 falls within that budget?

12 **A.** Yes.

13 **Q.** And the cost for the existing cast iron
14 main replacement program falls within that
15 category, distribution mains?

16 **A.** Yes, it does.

17 **Q.** And when the board approves a budget
18 currently, that doesn't mean that the expenditures
19 for distribution mains are set in stone, does it?

20 That is to say, the Company might make
21 adjustments throughout the fiscal year as to the
22 level of expenditures spent on distribution mains?

1 **A.** They approve the dollars. I think that's
2 what you asked in my --

3 **Q.** Well, and my -- I guess my question is, are
4 there tweaks along the way?

5 For example, if there's the budget is
6 for -- let's throw out a figure -- a million
7 dollars, that doesn't necessarily mean that a
8 million dollars will be spent on distribution
9 mains; is that right?

10 **A.** That's true.

11 **Q.** You indicate that after the capital
12 budget's approved, aggregate expenditures are
13 tracked monthly and reconciled with the capital
14 budget and forecasts for expenditures are adjusted
15 based on actuals to ensure compliance with the
16 budget targets.

17 So that's sort of was the basis for my
18 prior question. It sounds like there's sort of an
19 adjustment process that goes along based on what
20 happens, what might unexpectedly, and tweaks are
21 made within the budget to keep it within a forecast
22 approved by the board of directors?

1 **A.** That's correct.

2 **Q.** Now, Zinder Engineering was hired in 1981
3 and 2002 to perform studies related to Peoples cast
4 iron main replacement program; is that correct?

5 **A.** That's correct.

6 **Q.** And the latest Zinser report came out in
7 March of 2002 evaluating the replacement of all
8 cast iron pipe?

9 **A.** That's true.

10 **Q.** And that report, as I understand your
11 testimony, studied three different replacement
12 periods; completion by the year 2040, 2050, and
13 2060?

14 **A.** Correct.

15 **Q.** And this report confirmed the
16 reasonableness of -- and prudence of the planned
17 complete replacement by the year 2050, which is the
18 completion date under the existing replacement
19 plan; is that correct?

20 **A.** That's correct.

21 **Q.** And Zinder concluded that the 2050 plan has
22 less under uncertainty than, say, the 2060 date

1 evaluated in terms of future breakage rates,
2 maintenance costs and projected installation costs?

3 A. That's true.

4 Q. And then, subsequently, a task group of
5 Peoples employees reviewed the Zinder report and
6 agreed that the current plan to replace the cast
7 iron main by 2050 should be sustained consistent
8 with the recommendation of Zinder?

9 A. That's correct.

10 Q. And looking at Lines 360 and 361 at Page 17
11 of your direct testimony, you stated there that, in
12 your view, the Company's program has been conducted
13 in a reasonable and prudent manner; is that
14 correct?

15 A. That is correct.

16 Q. Now, at Page 15 of your direct, you point
17 out -- let's go to that.

18 JUDGE MORAN: What page, Ms. Lusson?

19 MS. LUSSON: 15.

20 BY MS. LUSSON:

21 Q. Beginning at Lines 311, you point out that
22 there's been a reduction of 1,472 miles of cast

1 iron main since 1981 and through 2006; is that
2 correct?

3 A. That's correct.

4 Q. So is it fair to assume that, on average,
5 doing the simple math, that the Company, under the
6 existing main replacement program, replaces
7 approximately 59 miles of cast iron main with
8 plastic per year?

9 A. I guess, if you do the math and mast,
10 that's what it comes out to.

11 Q. And, again, 59 miles would be an average
12 amount. It may -- some years, it may be more than
13 that; some years, it may be less?

14 A. I think, more recently, it's been a lot
15 less than that. I think, early on, there was a
16 greater degree of miles being replaced.

17 Q. Okay. And on Page 15, you also state that
18 the Company does not consider -- consider
19 alternatives to the existing overall program; is
20 that correct?

21 A. That's correct.

22 Q. So, to date, is it correct to assume that

1 the Company has not earmarked pipe or main segments
2 that would be replaced if Rider ICR is adopted that
3 otherwise aren't schedule to be replaced under the
4 existing program?

5 **A.** It would -- I mean, we have a main ranking
6 system that we use to help target that selection.
7 It would just increase the amount of the higher
8 ranked mains that we would replace.

9 **Q.** Okay. So there isn't, for example right
10 now, an existing Rider ICR budget. It would just
11 be an acceleration?

12 **A.** Correct.

13 **Q.** If you could turn to Page 16 of your direct
14 testimony where you describe the MRI rating system.

15 And, again, this is MRI system was
16 developed in 1995 and instituted in 1996 to
17 identify and prioritize gas main segments as
18 candidates for replacement, correct?

19 **A.** Correct.

20 **Q.** Now, you state that each individual segment
21 is evaluated based on its maintenance history, and
22 so the criteria taken into account include breaks,

1 crack of taps, pipe wall thickness, based on pipe
2 coupons (phonetic), visual observation, incidents
3 of leak and other repairs; is that right?

4 **A.** That's correct.

5 **Q.** And then often, you said that segments that
6 have an MRI rating greater than six are placed on a
7 schedule to be retired under that system; is that
8 right?

9 **A.** That's correct.

10 **Q.** And is this schedule compiled only once a
11 year or are there more periodic assessments
12 currently?

13 **A.** No, it's done monthly. We reassess. We
14 want run the probe in monthly.

15 **Q.** And what kind of things would trigger a
16 reassessment by the Company?

17 **A.** It's just automatically done based on
18 whatever maintenance has been performed. It's just
19 an ongoing thing. As you record maintenance items,
20 we would just rerun it. We calculate out a new
21 number.

22 **Q.** Okay. And in the segments with an MRI

1 value greater than 3.0 are viewed as possible
2 replacement candidates, as I understand your
3 testimony, when performing work on adjacent
4 segments and when evaluating the extent of public
5 improvement projects under consideration, correct?

6 **A.** That's correct.

7 **Q.** So is it fair to say that pipes or mains
8 with an MRI rating of less than three have a good
9 or decent maintenance history in terms of incidents
10 of leaks or other repairs?

11 **A.** It's a relative ranking.

12 **Q.** Better than the three-plus ranking?

13 **A.** Correct.

14 **Q.** And under the accelerated main replacement
15 program, is it correct to assume then that main
16 segments that have an MRI rating of less than 3.0
17 may be replaced if the Company sees fit and the
18 opportunity presents itself?

19 **A.** That could be possible.

20 **Q.** Now, you talk about three criteria used to
21 determine the pipe to be replaced in any given
22 year.

1 First is the MRI calculation that
2 highlights the problematic segments of pipe in
3 terms of their maintenance histories, correct?

4 **A.** Correct.

5 **Q.** And, second, your selections for main
6 replacement are coordinated with areas where the
7 City of Chicago or other governmental bodies are
8 performing public improvement work; is that also
9 true?

10 **A.** That's correct.

11 **Q.** And, finally, replacement miles of main are
12 determined for people's only capital projects for
13 the year, according to your testimony, right?

14 **A.** Correct.

15 **Q.** So is it fair to say that under the
16 existing program, there's a concerted effort to
17 coordinate your main replacement activities with
18 governmental public work projects so that there's
19 not unnecessary disturbance of recently completed
20 infrastructure improvements?

21 **A.** We try to.

22 **Q.** And is this effort to work with the City

1 currently done only once a year during the annual
2 capital budget process or are there multiple
3 communications during any given year about public
4 improvement work?

5 **A.** There could be multiple communications.

6 **Q.** Are there people assigned within the
7 Company to regularly interface with the public
8 works department of the City?

9 **A.** Yes.

10 **Q.** So there's regular interfacing done with
11 the City in terms of coordinating that -- those
12 public work projects and Company main replacements?

13 **A.** We work with the City when they -- when
14 they have a list of public improvement jobs. That
15 could change throughout the year. So, yeah, that's
16 why there's that constant communication.

17 **Q.** Now, what about during the construction of,
18 say, Millenium Park, was there any effort on the
19 Company's part to install plastic main upgrades
20 during this project that otherwise wouldn't have
21 occurred under the existing main replacement
22 program?

1 **A.** This is not from testimony now, right?

2 You're just asking me a question ?

3 **Q.** I'm just asking, yes, in terms of --

4 **A.** I don't believe -- I think -- I think
5 Millenium Park is all steel or plastic already.

6 **Q.** Okay. But which one? Is it also all
7 plastic, did you say, or --

8 **A.** Well, steel or plastic are both acceptable.
9 There might have been mains that have been
10 installed 20 years ago that are steel mains that
11 are fine.

12 **Q.** Okay.

13 **A.** There might have been -- recently, there
14 might have been some plastic mains installed. All
15 I'm saying is that area, I just am not aware of any
16 cast iron above the line.

17 **Q.** Now, there's, obviously, an existing big
18 construction project going on in the Loop at
19 Block 37.

20 When Peoples received word that that
21 construction project would happen, was there an
22 effort to look at the existing main replacement

1 schedule in that locale to see if this would be an
2 opportunity to replace cast iron mains with
3 plastic?

4 **A.** They would have, yes.

5 **Q.** You also state that replacing cast iron
6 with plastic replaces the predominantly
7 low-pressure cast iron mains.

8 Are there existing cast iron mains that
9 are medium-pressure system mains?

10 **A.** Yes, there are.

11 **Q.** And do you know what percentage of the
12 Company's mains are medium pressure?

13 **A.** That are cast iron medium?

14 **Q.** Yes.

15 **A.** I just don't know off the top of my head.
16 I know it's -- overall, it's 50 percent is cast
17 iron, but what percentage of that is cast iron
18 medium pressure, I just -- I just don't know that
19 number.

20 **Q.** Well, if the 50 percent are cast iron,
21 would the majority of them be medium pressure or
22 would the majority --

1 **A.** The majority would be low pressure.

2 **Q.** So would the medium pressure, if you can
3 ballpark it, say less than 25 percent? Greater
4 than 25 percent?

5 **A.** Estimating, I would say less than 25
6 percent.

7 **Q.** Now, turning to Page 18 of your testimony,
8 you talk about the benefits of replacing cast iron
9 main, including savings associated with the
10 declining leak repairs associated with the
11 installation of plastic main.

12 And then in your rebuttal testimony, I
13 think you also provided a list of the number of
14 leaks since 1996, and you showed how that number
15 has reduced over the years; is that correct?

16 **A.** That's correct.

17 **Q.** With respect to that leak reduction, can
18 you quantify the savings associated with that
19 significant reduction in main leaks over the years?

20 **A.** Ask the question again.

21 **Q.** Is it possible -- has the Company
22 quantified the savings associated with that

1 significant reduction in main leaks over the years?

2 JUDGE MORAN: Could you maybe clarify what do
3 you mean by savings from?

4 MS. LUSSON: Savings associated with replacing
5 cast iron with plastic main. O&M savings.

6 JUDGE MORAN: Okay.

7 MS. LUSSON: Reduction of leaks, that kind of
8 thing.

9 THE WITNESS: Not an overall calculation.

10 I mean, there was an estimate made of
11 how many leaks you might have on a plastic or steel
12 system as opposed to cast iron and trying to equate
13 that to dollars.

14 I think we estimated it was about \$3,000
15 per mile by replacing cast iron with plastic or
16 steel.

17 BY MS. LUSSON:

18 Q. And the kind of savings I think we're
19 talking about are the savings you sort of elaborate
20 on on Page 18 of your testimony, Lines 370 through
21 384, is that correct, where you talk about
22 prevention of leaks and the problem with ground

1 water infiltration.

2 **A.** Yes, it would eliminate those problems.

3 **Q.** Now, in your rebuttal and, in addition, to
4 reducing leaks, you stated that all gas
5 distribution piping systems require regulating
6 stations which reduce pressures for downstream
7 piping system. And that by eliminating
8 low-pressure systems, an entire class of
9 low-pressure regulating stations can be eventually
10 phased out.

11 Now, there are reductions to operation
12 and maintenance costs associated with this
13 low-pressure regulating station phase-out; is that
14 true?

15 **A.** Yes.

16 **Q.** And are those O&M savings over and above
17 the elimination of the regulating stations
18 themselves?

19 **A.** I'm not sure I understand what you're
20 asking.

21 **Q.** Well, I think you said there are savings on
22 associated with taking them out?

1 **A.** You would no longer have to do any type of
2 maintenance or service on those, right. So you
3 would save those costs.

4 **Q.** And that was going to be my next question.

5 Are how savings achieved? Is the plant
6 retired, thus creating a reduction to depreciation
7 expense; is that one way? Or -- and then you've
8 mentioned -- well, first, let me stop there.

9 **A.** Well, when you eliminate something that
10 involved, you would normally require regular
11 inspections. By eliminating it, you would
12 eliminate those inspections.

13 **Q.** Okay. So inspections is sort of the heart
14 of where the savings?

15 **A.** Correct. And possibly any repairs that
16 might stem from that inspection would be
17 eliminated.

18 **Q.** Now, as I understand the proposed
19 Rider ICR, those savings aren't going to be
20 reflected in any Rider ICR surcharge calculation,
21 as you understand it, are they?

22 **A.** I don't know if I'm really under- --

1 understand the mechanisms behind the ICR itself.

2 Q. Okay.

3 JUDGE MORAN: Is there a better witness for the
4 ICR questions?

5 MR. ZIBART: I believe Mr. Schott is also going
6 to testify on this.

7 JUDGE MORAN: Okay.

8 MS. LUSSON: We'll save that for Mr. Schott.

9 BY MS. LUSSON:

10 Q. Aside from the removal of the regulating
11 station and the labor associated with that and the
12 maintenance associated with that, is there any
13 other ways that you can think of that the Company
14 would save associated with the removal of
15 regulating stations -- or perhaps I should say
16 rather than how the Company saves reduction in O&M?

17 A. Other savings other than just to
18 regulators -- regulators -- regulator stations,
19 what else can I think of.

20 Q. Well, in terms of just that particular
21 exercise of removing the regulating station, you
22 talked about the maintenance costs --

1 **A.** Associated with that.

2 **Q.** And that's labor costs or -- anything else
3 that comes to mind strictly associated with the
4 regulating stations?

5 **A.** No.

6 **Q.** Okay. You've also referenced the
7 relocation of gas meters from inside to outdoors
8 which, again, happens with the replacement of cast
9 iron mains; is that correct?

10 **A.** That's part of the process when we talk
11 about moving the meters outside.

12 **Q.** And when meters are moved back outdoors, is
13 it correct that there aren't federally-mandated
14 periodic inside safety inspections then?

15 **A.** Just by the nature of it being outside
16 eliminates the inside safety inspection portion.

17 **Q.** So are there cost savings then that occur
18 here with the relocation of gas meters?

19 **A.** There would be savings attributed to that.

20 **Q.** And can you describe generally or a little
21 more specifically what those savings would be?

22 Not having to do the inspections.

1 Anything else that you can think of?

2 A. It's the labor to do the inspections, the
3 biggest issue with that is access issues. So it
4 eliminates access issues.

5 Q. Hm-hmm.

6 And by access issues, can you elaborate?

7 A. By relying on the customer to let us in to
8 inspect our facilities.

9 Q. So when the meters are inside, perhaps
10 sometimes there's a repeat attempt -- repeated
11 attempts to get into the building?

12 A. With some customers, yes.

13 Q. And I think you indicated it also permits
14 use of automatic meter readers, or AMRs, for
15 multiple meter readings; is that correct?

16 A. For all -- that's for all meters, for the
17 inside or the outside.

18 Q. Okay. And just to clarify that -- the AMRs
19 work whether the meter is inside or outside?

20 A. That's correct.

21 Q. If you could look at your Schedule ED 1.1,
22 which is attached to your direct testimony.

1 Line 1 lists the completion costs of
2 \$218,500,000 for cast and ductile iron pipe
3 replacement program. Do you see that there?
4 **A.** Yes.
5 **Q.** Again, attempting to do some math, is it
6 correct to assume then that the Company spends on
7 an annual basis about 21.8 million per year on the
8 existing main replacement program?
9 **A.** Again, that's math. It doesn't reflect
10 current costs.
11 **Q.** Okay. So, again, it might be higher or
12 lower on any given year?
13 **A.** Much higher.
14 **Q.** And is it higher now -- are you saying it's
15 higher in the back end of this ten-year period; is
16 that what --
17 **A.** That's correct.
18 **Q.** Okay. Do you, by chance, have with you the
19 Company's response to the DLH 1.03, Page 5 of 5?
20 MR. ZIBART: I don't know that the witness has
21 it in front of him.
22 MS. LUSSON: If you don't, I can locate it.

1 Great. It's actually an attachment to
2 Mr. Brosch's testimony, B-r-o-s-c-h.

3 JUDGE MORAN: Who's an intervenor witness.

4 MR. ZIBART: What was the reference?

5 MS. LUSSON: DLH 1.03, Page 5 -- Page 5 of 5. I
6 think I'm going to give it to you. Try and save
7 some time.

8 BY MS. LUSSON:

9 Q. There -- a three-year average for
10 distribution main plant investment is listed there.
11 You see that?

12 A. Hm-hmm. Yes.

13 Q. And there, the three-year average for 2004
14 to 2006 distribution mains is 21- -- well, I don't
15 have it in front of him now, but is it 21,499,000?

16 A. It's about 21.5 million, correct.

17 Q. Yes. Now, does that number -- my question
18 is, does that number correspond at all to your
19 completion costs estimate?

20 I mean, aren't those numbers comparable?

21 A. As far as what it's costing to do a cast
22 iron main replacement?

1 **Q.** Yes.

2 **A.** You would also add in the service and
3 there'd be meter regulator costs associated with a
4 replacement.

5 **Q.** Okay. So does -- and the completion costs
6 for cast iron and ductile iron pipe replacement
7 program that you list in your Schedule 1.1, that
8 excludes regulators and those other accounts that
9 you talked about?

10 **A.** That should include -- that should include
11 those.

12 **Q.** Okay. So, in that sense, they are -- they
13 are related?

14 Although it's for a different time
15 period, it attempts to show the investment
16 associated with the replacement of distribution
17 mains and the associated equipment?

18 That is correct?

19 **A.** Well, in looking at the exhibit that you
20 just handed me, right. The costs associated with
21 that that replacement would be the mains, the
22 services, and looks like the meter and

1 installations -- or the house regulators, the
2 bottom one, Line No. 6.

3 Q. Okay. And do you have any idea as to how
4 those numbers would grow if Rider ICR is adopted?

5 A. No, I do not.

6 JUDGE MORAN: Might I also ask who's numbers
7 those are?

8 MS. LUSSON: Those are the Company's numbers.

9 JUDGE MORAN: And they're an attachment to
10 Mr. --

11 MS. LUSSON: -- Brosch's testimony, yes.

12 JUDGE MORAN: And they don't appear in anybody
13 else's?

14 MS. LUSSON: That, I'm not sure.

15 JUDGE MORAN: Okay. All right.

16 Because I don't have Mr. Brosch as a
17 witness -- a witness Mr. Doerk is responding to and
18 that's why I'm confused.

19 Thank you.

20 MS. LUSSON: No, it's not in response. It's
21 that --

22 JUDGE MORAN: So, again, that's part of the ICR

1 testimony?

2 MS. LUSSON: Right. And so for purposes of
3 this, I wanted to explore to see if the amounts
4 included in the Rider ICR in any way -- in any way
5 related to the plant --

6 JUDGE MORAN: I understand.

7 MS. LUSSON: -- regarding Mr. Doerk --

8 JUDGE MORAN: Thank you.

9 BY MS. LUSSON:

10 Q. And how about the other five accounts
11 listed there, which are the regulators, services?
12 What are the other the accounts there?

13 A. Underneath distribution main is vaults and
14 regulators; services, which you talked about; meter
15 purchases.

16 Q. And do you know how those numbers would
17 change if Rider ICR is adopted?

18 A. No, I don't.

19 Q. So we know that they would grow and the
20 investment in those accounts would grow larger if
21 Rider ICR is adopted, but at this point in time,
22 you don't know to what extent?

1 **A.** The distribution mains, services and
2 regulators. Some of these are just -- like meter
3 installations, those are purchases. I don't know
4 of any change in that number as it relates to ICR.

5 **Q.** When you say "those are purchases," what do
6 you mean by that? As opposed to --

7 **A.** Meter purchases is the actual purchase of
8 the meter and some for new customers. I mean,
9 there's more into this than just cast iron duct
10 line replacement, (sic) these numbers.

11 **Q.** All right. And so there's -- in those
12 numbers, it includes cast iron main investment,
13 purchase of meters, regulator -- I assume,
14 regulator removals?

15 If there's an amount listed for
16 regulators and it's associated with --

17 **A.** I would assume that -- again, I'm not
18 familiar to with the makeup of these numbers.
19 House regulators would be -- I'm not sure.

20 **Q.** Okay.

21 JUDGE MORAN: I would expect that Mr. Brosch, if
22 he is including this in his testimony, must have

1 gotten it from a witness. He must have identified
2 the witness in his narrative.

3 MR. ZIBART: Yes. Your Honor, it was -- the
4 document that is at issue here was produced by the
5 Company and it was a data request response that was
6 not prepared by Mr. Doerk. It was prepared by
7 Ms. Grace who will be subsequently testifying.

8 JUDGE MORAN: Oh, then that may --

9 MS. LUSSON: And I believe that response was the
10 Company's attempt to produce what Rider ICR
11 calculations look like; is that correct? I believe
12 that was that.

13 JUDGE MORAN: If Mr. Doerk knows. Do you know?

14 THE WITNESS: I don't know.

15 JUDGE MORAN: Okay.

16 BY MS. LUSSON:

17 Q. And so in terms of any kind of accelerated
18 main program adoption through Rider ICR, I believe,
19 as it stands now, the proposed tariff would include
20 distribution mains, services, meters and meter
21 installations and house regulators. Is that your
22 understanding in terms of the plant that would

1 be --

2 **A.** For plant that would affected by this would
3 be definitely distribution mains, services and
4 meter and regulator replacement.

5 **Q.** And when you said before that meters and
6 meter installations involve purchases, so that is
7 not -- that -- the amounts included in that
8 account, would that include removals and then
9 purchases of new meters?

10 **A.** Meter purchases, to me, is -- again, I'm
11 reading from that sheet -- it would be the purchase
12 of the new meters.

13 **Q.** And then the house regulators, first, can
14 you explain to me exactly what a house regulator
15 is?

16 **A.** A house regulator would be used on our --
17 one of our higher pressure systems. Typically, our
18 medium-pressure system. And it would reduce the
19 pressure to inches of water column a quarter of a
20 pound most of the appliances in a home would
21 operate on.

22 **Q.** And the amounts included within the house

1 regulator account, I take it then that there would
2 have to be new regulators purchased associated with
3 replacing the old main?

4 **A.** An existing low-pressure customer would not
5 have a regulator. So it would be for the purchase
6 of a regulator and adding that to those customer
7 that that were going from a cast iron low to now a
8 medium pressure system.

9 **Q.** And do you know -- you stated that you're
10 not familiar with this response.

11 Did Ms. Grace consult with you prior to
12 preparing this response?

13 **A.** Some of those -- so of those numbers are --
14 would be part of a budget to distribution mains and
15 services.

16 **Q.** So did she consult with you to get those
17 numbers?

18 **A.** Those numbers would have come from our
19 area, I believe.

20 **Q.** Hm-hmm.

21 Now, under -- you may or may not be able
22 to answer this. So, obviously, tell me if you

1 can't.

2 But under the Company's proposed
3 modified Rider ICR, the Company has stated that
4 it's willing to accept Ms. Hathhorn's
5 recommendation that if the Commission adopts
6 Rider ICR, the monthly surcharge shall be kept five
7 percent of the ICR base rate revenues billed to
8 customers.

9 And then in his rebuttal testimony,
10 Mr. Schott stated five percent of base rate revenue
11 caps -- revenues cap is acceptable.

12 Now, you're here testifying about rate
13 base numbers included in this case; is that
14 correct?

15 **A.** For the -- our main projects -- for our
16 capital projects, correct.

17 **Q.** For capital additions.

18 Now, if you know, do you understand what
19 that five percent means and how the company is
20 interpreting base -- five percent of base rate
21 revenues?

22 Is it overall revenues as listed in the

1 Company's Part 285 schedules or is it overall
2 revenues for the customer classes subject to ICR?

3 A. I really don't know.

4 Q. Okay. I'll ask Mr. Schott that then.

5 And I'm assuming then that my question
6 regarding what the baseline level for the Rider ICR
7 calculation would be as in terms of the Company's
8 position today as compared with the original
9 position of the company should be held for
10 Mr. Schott?

11 A. Yes.

12 Q. Actually --

13 JUDGE MORAN: That was a question, but --

14 THE WITNESS: Can you repeat that?

15 BY MS. LUSSON:

16 Q. Yeah, I'm sure it was inartfully delivered.

17 Is the baseline level for the Rider ICR
18 calculation still the average amount of investments
19 in these identified accounts for the 2004 through
20 2006 period as originally discussed by Ms. Grace in
21 her testimony or has it changed now to --

22 A. I don't know. I really don't know.

1 **Q.** Can you state what amount of spending per
2 year typically occurs for the entire capital
3 additions budget?

4 **A.** The entire capital budget?

5 **Q.** Yes.

6 **A.** Boy, I just saw the number the other day,
7 too. I -- I just can't recall it off the top of my
8 head.

9 You're talking about the Peoples Gas,
10 Light and Coke Company's total capital budget?

11 **Q.** Right --

12 **A.** Yeah.

13 **Q.** -- on an annual basis.

14 **A.** You know, I don't know if you would include
15 computer things or building-related items,
16 transportation. I just am not -- I just don't know
17 the number off the top of my head.

18 **MS. LUSSON:** Could I make that an oral data
19 request for the Company?

20 The amount of spending per year that
21 occurs for the entire capital additions budget.

22 **MR. RATNASWAMY:** For how many years? And before

1 you answer that, you might want to look at
2 Part 285, Schedule B-5 because it might have
3 everything you want.

4 MS. LUSSON: All right. I'll take a look at
5 that.

6 BY MS. LUSSON:

7 Q. Now, my understanding is that the updated
8 PGL spending forecasts for all capital additions
9 for the 12 months ending September 30th, 2007 is
10 \$86,006,000, and that's -- that was in response to
11 AG Data Request 8.06. Does that sound like a
12 reasonable number?

13 A. I don't know. I really don't know.

14 JUDGE MORAN: Was that data request prepared by
15 you?

16 MR. ZIBART: Doesn't sound like it.

17 THE WITNESS: I just don't know the total.
18 You're asking for Gas, Light, its total capital
19 budget. I just don't -- I just don't know that
20 number.

21 BY MS. LUSSON:

22 Q. Is that a number that Mr. Schott might be

1 able to explore?

2 **A.** I'm sorry?

3 MR. RATNASWAMY: Which number is it again,

4 total?

5 MS. LUSSON: 8.06.

6 JUDGE MORAN: If the Company can please find out

7 who responded to that data request, that might be

8 helpful.

9 MR. RATNASWAMY: If you're still -- if you're

10 talking for the CAPX years? So I think you have a

11 copy there.

12 MS. LUSSON: This would be the updated spending

13 forecast for all capital additions for the 12

14 months ended September 30th, 2007.

15 MR. RATNASWAMY: Okay. Sorry. That's a

16 different number. I'm sorry.

17 MS. LUSSON: Okay.

18 MR. ZIBART: Okay. So what's the data request

19 that we're --

20 MS. LUSSON: 8.06.

21 MR. ZIBART: AG 8.06.

22 Do you know who responded to it?

1 MS. LUSSON: Pardon me?

2 MR. ZIBART: Do you know would responded to it?

3 MS. LUSSON: No, it didn't state.

4 MR. ZIBART: Okay.

5 JUDGE MORAN: Well, I think that's a good

6 opportunity for you to get that answer some way.

7 It does not seem like this is the witness, so let's

8 just continue with another question.

9 The Company --

10 MS. LUSSON: You know what, I'll go back and get

11 that response and present it to Mr. Schott, and I

12 think probably within the context of the questions

13 I have about the Rider ICR, that perhaps Mr. Schott

14 would be able to discuss it.

15 JUDGE MORAN: Yeah, because I don't really

16 recall this witness talking about Rider ICR.

17 MS. LUSSON: But he is the witness for the cast

18 iron main replacement department.

19 JUDGE MORAN: I understand that.

20 MS. LUSSON: So just want to know what the

21 its -- that's all the questions I have.

22 Thanks, Mr. Doerk.

1 JUDGE MORAN: All right. And --

2 MS. SODERNA: I just wanted to let you know.

3 CUB does not have any cross for this witness.

4 JUDGE MORAN: Thank you.

5 So we have City of Chicago, Local and

6 IIEC.

7 MR. ROBERTSON: We're going to waive our cross

8 of this witness.

9 JUDGE MORAN: IIEC is waiving cross?

10 MR. ROBERTSON: That's correct.

11 JUDGE MORAN: Okay. Going once.

12 MR. REDDICK: Your Honor, Mr. Strauss has agreed

13 to let me go first since I have a lot shorter list

14 of questions.

15 JUDGE MORAN: Okay. Very good.

16 CROSS-EXAMINATION

17 BY

18 MR. REDDICK:

19 Q. Mr. Doerk, my name is Conrad Reddick. I

20 representing the City of Chicago.

21 How does Peoples Gas know when there is

22 a need for increased distribution pipeline

1 capacity?

2 A. Say that again?

3 Q. How does your Company know when there is a
4 need for increased distribution pipeline capacity?

5 A. Pipeline capacity?

6 MR. ZIBART: Distribution.

7 THE WITNESS: Distribution pipeline capacity.

8 I mean, it would be done on load models
9 that we have a network that models our load. And
10 depending on how load changes from year to year,
11 that's how we size our distribution system.

12 BY MR. REDDICK:

13 Q. What do you do about a need for increased
14 capacity at an individual customer, for instance?

15 A. I mean, it's very vague. I mean, it's --

16 Q. Well, how -- let me rephrase the question.

17 How do you know when an individual
18 customer has a need for increased pipeline
19 capacity?

20 A. I mean, normally, a customer would come
21 forward and say they're increasing their load. And
22 we would do another -- again, we would do a load

1 study.

2 It might require a larger service to
3 feed them, if an individual customer was adding
4 additional gas-burning equipment or somehow were
5 going to use in part of a process. We would do a
6 recalculation of their service size.

7 **Q.** For -- well, let's take a residential
8 customer first.

9 Is it possible that a residential
10 customer could increase his consumption of gas to
11 the point that there would be either a diminution
12 in the quality of service or some effect on the
13 distribution system that Peoples would notice?

14 **A.** Residential customer? Unlikely.

15 **Q.** And that is because?

16 **A.** I mean, there's not much that you could add
17 on a residential. As a matter of fact, if they --
18 if they were to change appliances, it's probably an
19 energy-efficient appliance that they're changing it
20 with, so load would actually go down.

21 **Q.** Could a customer double his consumption
22 without requiring a larger pipe?

1 **A.** On a case-by-case basis, I guess that's
2 possible. Again, you'd have to look at the service
3 size, the length of the services and what load is.

4 **Q.** So if a customer attempted to double his
5 consumption, how would you know there was a need
6 for additional capacity in the pipe?

7 **A.** If the customer just about to double -- I'm
8 assuming at some point in time, they'd call with a
9 poor supply, if they just went out and did it.

10 If this is a residential customer, I
11 don't know what they would add, but, I mean, I
12 guess they would get a call that they weren't
13 getting enough gas supply to feed whatever
14 appliance they added.

15 **Q.** Okay. So one way you would know whether
16 there's a need for increased capacity in the
17 pipeline is a complaint from a customer of
18 insufficient supply?

19 **A.** Yes.

20 **Q.** In such a situation -- well, let's move to
21 a commercial or industrial customer.

22 If a customer of that sort increased

1 load significantly without advance notice to the
2 Company, when (sic) would be the effect on the
3 system that the Company might notice?

4 **A.** Well, again, we would do -- we'd do an
5 annual load study. And if -- we would look at the
6 consumption of that particular customer, we'd see
7 it going up, it would add an additional load. So
8 as the system or the network recalculates it, we
9 would find out what effect it would have on
10 pressure.

11 **Q.** And when you say additional load, are you
12 talking about peak load or consumption over the
13 months or consumption over the year before you --
14 since the last study?

15 **A.** Well, we would look at consumption of the
16 load for that individual account.

17 **Q.** Since the last study over the --

18 **A.** Since the last study. It would be updated
19 on an annual basis, yes.

20 **Q.** If you had a situation where a customer
21 complained of insufficient supply, how do you
22 handle service to that customer until new

1 facilities can be constructed?

2 **A.** I don't know.

3 I mean, again, if they had added
4 something and they don't have the -- if they're
5 not -- don't get adequate pressure supplied, we'd
6 have to look at sizing a different size service and
7 running a new service to that customer.

8 **Q.** And until a new pipeline is actually
9 installed to that customers, there's nothing you
10 can do to assure adequate service?

11 **A.** You'd have to look at each one on a
12 case-by-case basis.

13 What is this customer? Is it off our
14 low-pressure system?

15 **Q.** Well, without -- if we're looking at a
16 case-by-case basis, what are some of the options
17 that might be available on a case-by-case basis?

18 **A.** Low pressure? Not too many. Medium
19 pressure? It's possible to give them gas at a
20 higher pressure.

21 **Q.** And how would that be accomplished?

22 **A.** Different regulator.

1 **Q.** At the customer premises?

2 **A.** Yes.

3 MR. REDDICK: That's all.

4 Thank you.

5 JUDGE MORAN: Okay. And --

6 JUDGE GILBERT: Mr. Strauss?

7 MR. STRAUSS: Your Honor, if -- could we go off

8 the record for a moment?

9 JUDGE MORAN: Sure, we can.

10 (Discussion off the record.)

11 CROSS-EXAMINATION

12 BY

13 MR. STRAUSS:

14 **Q.** Are we all set then? Do you have the

15 document, Mr. Doerk?

16 **A.** Yes.

17 **Q.** I'm actually not going to start there, but

18 I'm glad you have them.

19 I'd like to start with your Peoples

20 direct testimony. It's marked as Exhibit ED-1.0.

21 I'm looking at your testimony on Page 4 at Lines 69

22 through 71. If you could turn to that, please.

1 **A.** Peoples' direct?

2 **Q.** Yes.

3 **A.** Okay.

4 **Q.** Okay. You state that a gas utility system

5 sized only to accommodate average gas demands would

6 not be able to meet system peak demands. Do you

7 see that?

8 **A.** Okay. What's the question?

9 **Q.** The question is, do you see that part of

10 your testimony?

11 Have you had a chance to look at it?

12 **A.** On Page -- on Line 69?

13 **Q.** 69 through 71.

14 **A.** Okay.

15 **Q.** Okay?

16 All right. Here's my question: It

17 would be true as well, would it not, that a gas

18 utility system staffed to accommodate only average

19 gas demand would not be able to meet system peak

20 demands; is that correct?

21 **A.** Correct.

22 **Q.** Thank you.

1 If you can turn to Page 18 of your
2 direct testimony.

3 JUDGE MORAN: Page 18?

4 BY MR. STRAUSS:

5 Q. The page that begins with the statement the
6 overarching motivation for replacing cast iron
7 main.

8 Do you see that?

9 A. Hm-hmm. Yes.

10 Q. At Lines 375 to 377, you make the statement
11 high-pressure distribution systems are inherently
12 more reliable than older vintage low-pressure
13 systems.

14 Do you see that?

15 A. Yes.

16 Q. The corresponding point is also true, is it
17 not: Lower pressure systems are inherently less
18 reliable?

19 A. Cast iron low-pressure systems.

20 Q. Yes, cast iron --

21 A. Yes.

22 Q. -- low-pressure systems.

1 And why is that the case?

2 **A.** It's possible that for some of these where
3 you might have leaks in there, if you have water
4 higher than a quarter of a pound, which is what our
5 low-pressure system operates, water could get in
6 the main.

7 **Q.** Would you say that the current lower
8 pressure gas system poses unique demands on the
9 Company's employees?

10 **A.** It places unique demands?

11 **Q.** Well --

12 JUDGE MORAN: What do you mean by "unique"?

13 THE WITNESS: Yeah.

14 BY MR. STRAUSS:

15 **Q.** The demands that are unusual, given the
16 nature of the system. Are there -- let's put it
17 this way:

18 Are there demands that are placed on the
19 employees that are specific to this being a lower
20 pressure system that wouldn't be the case for a
21 higher pressure system?

22 JUDGE MORAN: Are you saying, is the work

1 different?

2 MR. STRAUSS: Say again.

3 JUDGE MORAN: The work? Is the work --

4 BY MR. STRAUSS:

5 Q. Would the -- well, let's put it this way:

6 With a lower pressure gas system, would

7 there be a higher incidence of leaks?

8 A. Low pressure -- not necessarily.

9 Q. Not necessarily?

10 Would there be a higher incidence of

11 service outage?

12 A. For low-pressure mains?

13 Q. For low.

14 A. That could be possible.

15 Q. Would there be other operational issues

16 that are raised by a lower pressure system as

17 opposed to a higher pressure system?

18 A. I mean, I think we touched on them. Water

19 infiltration.

20 Q. Okay. Anything else that you can think of?

21 A. That would be different from a higher

22 pressure system?

1 **Q.** Yes.

2 **A.** No.

3 **Q.** Okay. If you could turn to Page 2 of your

4 direct testimony. You state at Lines 37 through 39

5 that it would benefit customers to eliminate the

6 low-pressure system, and it would enhance safety

7 reliability and cost-effectiveness. Do you see

8 that?

9 **A.** Yes.

10 **Q.** Why would it make the overall system safer,

11 sir?

12 **A.** Well, I think what we're after is the

13 elimination of leaks.

14 **Q.** Elimination of leaks?

15 **A.** Correct.

16 **Q.** And you're saying that the -- that the use

17 of a higher pressure system will help to eliminate

18 leaks.

19 Do I understand you correctly?

20 **A.** The elimination of cast iron --

21 **Q.** Right.

22 **A.** -- will help to eliminate leaks.

1 Q. And that would make the system safer, sir?

2 A. By reducing the number of leaks, correct.

3 Q. That's because gas leaks pose a risk, a

4 safety risk; is that correct?

5 A. Gas leaks are gas leaks.

6 Q. Do they pose a safety risk?

7 A. They might.

8 Q. And that's a risk for customers; would that

9 be correct?

10 A. Could be.

11 Q. It could be a risk for employees as well,

12 could it not?

13 A. Working on the leak?

14 Q. For example.

15 A. It's possible.

16 Q. Okay. If you could turn to your rebuttal

17 testimony, Exhibit ED 2.0. I'm looking at Page 6,

18 Lines 122 to 130.

19 Do you see that?

20 A. Yes.

21 Q. You're addressing there Mr. Gennett's

22 recommendation that the Commission condition any

1 relief granted in this proceeding on the conduct of
2 an audit, an audit that would concern, among other
3 things, repair work order response times and
4 backlogs.

5 Do you see that?

6 **A.** Yes.

7 **Q.** Mr. Doerk, are you familiar with the term
8 "temporary repair" as used in the context of gas
9 system operations?

10 **A.** Yes.

11 **Q.** As used with respect to Peoples Gas, what
12 does that term mean?

13 **A.** Temporary repair is a -- just what it is.
14 It's a temporary repair. It's not a permanent
15 repair.

16 **Q.** A temporary repair being nonpermanent
17 repair of a leak; that would be an example?

18 **A.** Correct.

19 **Q.** I know you have Mr. Gennett's testimony in
20 front of you. I would like to draw your attention
21 to an exhibit in his rebuttal. It's Exhibit 2.07.
22 That's a data response the company provided to the

1 question asked by Local 18007.

2 MR. RATNASWAMY: These copies are just the
3 narrative. Sorry.

4 MR. STRAUSS: I apologize. One moment. I'll
5 have it for you.

6 THE WITNESS: 2.07?

7 MR. STRAUSS: 2.07. It's the response to Data
8 Request UWUA 3.16.

9 JUDGE MORAN: It seems to be five pages,
10 counting from the back.

11 MR. ZIBART: Five pages from the back?

12 JUDGE MORAN: Yeah.

13 THE WITNESS: We are looking for a data request?

14 MR. STRAUSS: Yeah, response.

15 Your Honor, may I approach the witness?

16 JUDGE MORAN: Yeah, and maybe help him find it.

17 MR. STRAUSS: Yeah.

18 (Discussion off the record.)

19 THE WITNESS: Okay.

20 BY MR. STRAUSS:

21 Q. You've had a chance to look at it?

22 A. Yes.

1 **Q.** You can see it says that the Company has
2 not compiled information for each of the past five
3 years concerning the use, frequency or average
4 duration of temporary repairs?

5 **A.** Correct.

6 **Q.** And as far as you're aware, that data
7 response remains correct today?

8 **A.** Correct.

9 **Q.** Go back to your rebuttal at Lines 126 to
10 128 on Page 6.

11 You refer to an ongoing review --

12 **A.** We're on rebuttal? My rebuttal?

13 **Q.** Yeah, I apologize. Your rebuttal at
14 Page 6, and I'm looking at Lines 126 to 128.

15 **A.** Okay.

16 **Q.** You refer there to an ongoing review of all
17 of -- all pipeline safety-related activities. Do
18 you see that?

19 **A.** On Line 25?

20 **Q.** That's Line 126 and 127.

21 **A.** Okay. The Company's already paying and
22 working...

1 **Q.** That's correct.

2 **A.** -- Commission hired consult. Okay.

3 **Q.** And it says, Reviewing all of the
4 Company's -- all of the Company's pipeline
5 safety-related activities.

6 Do you see that?

7 **A.** Yes.

8 **Q.** Can you tell me what do you understand is
9 included within the phrase "pipeline safety related
10 activities," as you've used it on Page 6?

11 **A.** Anything related to Part 192 regulations
12 that we were to conform with.

13 **Q.** Anything related to Part 192 that what now?
14 I didn't hear the rest of it.

15 **A.** The regulations that a gas utility is
16 required to be in conformance with.

17 **Q.** Is it your understanding that the review
18 will evaluate the use of temporary repairs on
19 Peoples' gas system?

20 **A.** It's a total encompassing review. I'm not
21 sure exactly what all relates. They're in the
22 process of this audit right now.

1 **Q.** Do you know whether it will quantify the
2 use of temporary repairs?

3 **A.** Will it?

4 **Q.** Will it quantify the use of temporary
5 repairs in the Peoples Gas system?

6 **A.** I don't know.

7 **Q.** Do you know whether it's going to provide
8 data on the average duration of the temporary
9 repair on the Peoples Gas system?

10 **A.** I don't know. It could.

11 **Q.** Do you know of any other data on temporary
12 repairs that it might provide?

13 **A.** That what might provide?

14 **Q.** This review that you refer to on Page 6.

15 **A.** I don't know.

16 **Q.** Now, do you know whether the review is
17 going to provide any information on the adequacy of
18 the staffing levels at Peoples Gas?

19 **A.** They're looking at everything.

20 I don't know exactly specific what
21 they're going to -- or what they are looking -- or
22 doing an entire pipeline safety audit.

1 You're asking me specific questions. I
2 really don't know.

3 **Q.** Do you know what the status of the review
4 is?

5 **A.** It just started about three, four months
6 ago.

7 **Q.** Do you know when it's scheduled to be
8 finished?

9 **A.** I believe it's 18 months in duration.

10 **Q.** Do you know --

11 **A.** I don't know.

12 **Q.** Okay. Sorry.

13 Do you know whether the results will be
14 made available to the public?

15 **A.** I'm not sure.

16 **Q.** If you could turn to the same stack of
17 documents in Mr. Gennett's rebuttal. I'm sorry.
18 I'm looking at another data response.

19 This is -- it's his response -- it's
20 Exhibit 2.05 to Mr. Gennett's rebuttal and this
21 document is a response to Data Request UWUA 3.09
22 and attached to it is a two -- two-page excerpt

1 from a -- from the Company's field service manual.

2 A. Okay.

3 Q. Do you have it there, sir?

4 A. Yes.

5 Q. Okay. Thank you.

6 What is the purpose of the field service
7 manual?

8 A. It guides and direct field service
9 employees.

10 Q. Would you say it's the official set of work
11 procedures for field service employees?

12 A. They would use this in conjunction with
13 performing their work.

14 Q. So the manual is distributed to all field
15 service employees; would that be correct?

16 A. Yes.

17 Q. Does the Company conduct training on the
18 procedures of the field service manual?

19 A. Yes.

20 Q. Do field employees have the manual with
21 them when they conduct their work out in the field?

22 A. Yes.

1 **Q.** Is the manual submitted to this Commission
2 for its review?

3 **A.** We -- they -- yes, the Commission does have
4 our manuals.

5 **Q.** Do they -- the Commission have to approve
6 them before they go into effect?

7 **A.** No. I mean, if we make any changes, we
8 update them on it, but they would have the full
9 copies of our manuals.

10 **Q.** If you make changes, you'd review them with
11 the Commission?

12 **A.** We would submit it to them.

13 **Q.** And in terms of submissions, would that
14 be -- the review be through the pipeline safety?

15 **A.** It would be the pipeline safety group that
16 we would submit to.

17 **Q.** Okay. Does the Company undertake audits of
18 the compliance with the procedures of the manual?

19 **A.** We have recently implemented a compliance
20 monitoring group that are now performing audits.

21 **Q.** How recently?

22 **A.** Within the past year.

1 **Q.** The ICC, does it -- does it do field audits
2 of compliance with the manual as well?

3 **A.** Yes, they do.

4 **Q.** If you could take a look at the excerpts,
5 it's from Section 11.7, entitled repair of leaks.
6 I'm looking at the -- starting off, I'm looking at
7 the first two sentences.

8 **A.** Okay.

9 **Q.** The first one states, in part, that --
10 well, it states in its entirety that the leaks on
11 customer or company-opened piping in a premise
12 shall be repaired permanently on the first call
13 whenever possible.

14 And then it states -- the second
15 sentence says, Temporary repairs will be avoided.

16 Why is it the case that the field
17 service manual advises that leaks should be
18 repaired permanently on the first call, if
19 possible?

20 **A.** That is the preferred method of completing
21 a leak.

22 **Q.** If you don't have a permanent repair, then

1 you use a temporary repair; is that correct?

2 **A.** That's correct.

3 **Q.** And the manual states the temporary repairs

4 are to be avoided; is that correct?

5 **A.** If at all possible.

6 **Q.** If at all possible.

7 And why should they be avoided, if at

8 all possible?

9 **A.** Because the preference is to have a

10 permanent repair.

11 **Q.** Do temporary repairs pose safety risks?

12 **A.** If it was, it would not be allowed to be

13 left that way. It would not be allowed to be a

14 temporary repair.

15 **Q.** A temporary repair, that generally involves

16 the use of white cloth tape, soap and water and

17 some kind of a sticky gum compound, would that be

18 correct?

19 **A.** That could be some of the things they use,

20 yes.

21 **Q.** A permanent repair, that would involve

22 replacing a pipe or a fitting or valve --

1 **A.** It could, yes.

2 **Q.** -- would that be correct?

3 **A.** Yes.

4 **Q.** What safety risks might be posed by a
5 temporary repair?

6 **A.** A temporary repair is a safe condition
7 that's left, but it's meant for someone to follow
8 up with a new permanent repair.

9 **Q.** Well, why would you have to follow up and
10 do a permanent repair if it's safe when it's left,
11 sir?

12 **A.** Because that's what our manual requires.

13 **Q.** Do you know why?

14 **A.** Because it is a temporary repair. It's not
15 meant for long-term -- it's not a permanent repair.

16 **Q.** Is it possible that a temporary repair
17 might deteriorate or it might fail before a
18 permanent repair is made?

19 **A.** I would believe that would be one of the
20 things that why you would want to come back and
21 follow up and do a permanent repair.

22 **Q.** What might other reasons be that you'd want

1 to come back and do a permanent repair?

2 **A.** We want to come back and do a permanent
3 repair on all of them.

4 **Q.** I know.

5 Why?

6 **A.** You do not want to leave it in a temporary
7 condition. It's a temporary repair.

8 **Q.** In right under Heading A, the sentence
9 reads, When performing a temporary repair, the need
10 for prompt correction should be stressed.

11 Do you see that?

12 **A.** Yes.

13 **Q.** Why is prompt correction needed for a
14 temporary repair?

15 **A.** Because it's not intended to be left as a
16 temporary repair. It's intended to be meant that a
17 permanent repair would subsequently be made.

18 **Q.** Well, why would it have to be repaired
19 promptly?

20 Why couldn't it be repaired on a
21 leisurely basis?

22 **A.** Because it is a temporary repair and

1 something you would want to get done and you would
2 not want to leave open-ended. You'd want to do it
3 as promptly as possible.

4 Q. You wouldn't need any further work on a
5 permanent repair; is that correct?

6 A. That is correct.

7 Q. Why would you not need to do any further
8 work on a permanent repair?

9 A. Because it is a permanent repair.

10 Q. There are different classes of gas leaks,
11 are there not, sir?

12 A. Yes.

13 Q. And am I correct that the different
14 categories, there's Gas Leak 1, 2 or 3; is that a
15 term -- are those terms you're familiar with?

16 A. Correct. Yes.

17 Q. Class 1 leaks are considered the most
18 serious, are they not?

19 A. That's correct.

20 Q. Would it be true that Class 1 leaks pose
21 greater safety concerns than Class 2 or Class 3?

22 A. Correct.

1 **Q.** Why is that?

2 What is it about Class 1 leaks?

3 **A.** Class 1 leaks are -- that's the immediate

4 danger. It's something that -- it's hazardous,

5 could potentially be dangerous. It's required to

6 be worked on to clear a Class 1 or downgrade a

7 Class 1.

8 **Q.** In deciding the amount of time by which a

9 permanent repair should be made, will consideration

10 be given to whether the leak at issue is a Class 1

11 leak or a Class 2 leak or Class 3 leak?

12 **A.** Well, if it's a Class 1 leak, you have

13 to -- you have to keep continuous action until you

14 can downgrade that leak to something other than a

15 Class 1. You can't leave a Class 1 leak.

16 **Q.** In deciding whether -- well, you can repair

17 a Class 1 leak temporarily, can you not?

18 **A.** Well, then it's no longer a Class 1 leak.

19 **Q.** Can you use a temporary repair on a Class 1

20 leak?

21 **A.** If you down- -- if that downgrades it from

22 a Class 1 leak, from not being a Class 1 leak.

1 **Q.** You discuss in your rebuttal testimony a
2 gas leak at Sacred Heart Hospital; is that correct?

3 **A.** Correct.

4 **Q.** That was a Class 1 leak; am I correct?

5 **A.** You know, it's one I looked into because it
6 was brought up in Mr. Gennett's testimony.

7 Yes, I think -- I believe it was a
8 Class 1 leak when it was first discovered.

9 **Q.** If the manual states temporary repairs are
10 to be avoided and permanent repairs should be done
11 on the first call, why would a temporary repair
12 ever be appropriate?

13 **A.** There, you might not have the right person
14 on the job. You might have to curtail gas to a
15 customer that you try to arrange with them, if it
16 was possible and could be left safe.

17 **Q.** So that'd be correct that a temporary
18 repair might be necessary when the employee that
19 must be present to complete the permanent repair is
20 not available; would that be a reason?

21 **A.** Say that again.

22 **Q.** It'd be correct that you'd use a temporary

1 repair or a temporary repair might be necessary
2 when the employee who needs to be present to
3 complete the permanent repair is for whatever
4 reason not available?

5 A. Not necessarily.

6 Q. I didn't say necessarily.

7 I said, would that be one reason why you
8 might have to use a temporary repair?

9 A. No, it might be one that you were just
10 trying to alleviate a hazard until you can schedule
11 a crew to come back or, again, if you shut down a
12 customer. There might be other reasons that are
13 involved with it.

14 Q. If you don't have the crew available, you
15 have to use a temporary repair; isn't that correct?

16 A. No, depending on how dangerous it was, you
17 could disconnect it, cut it off. You could shut
18 the customer down.

19 If it was going to remain hazardous, you
20 would take whatever action is necessary to make it
21 nonhazardous.

22 Q. Is it true, Mr. Doerk, that a distribution

1 crew or a Senior Service Specialist No. 1 or No. 2
2 must be present to perform a permanent repair on a
3 Class 1 leak?

4 **A.** That's correct.

5 **Q.** If, for whatever reason, the distribution
6 crew or service -- Senior Service Specialist No. 1
7 or Senior Service Specialist No. 2 is not
8 available, then a temporary repair is the only
9 option; isn't that correct?

10 **A.** A temporary could be made by that person.
11 The crew leader or the Senior Service Specialist
12 No. 1.

13 **Q.** I said if they're not available. Assume
14 they're not available.

15 Is a temporary repair the only option
16 for the Class 1 leak in that instance, other than
17 shutting off the customer?

18 **A.** No -- right. Those be would the options.
19 Shutting it off.

20 **Q.** Either the temporary repair or shutting off
21 the customer, those are the options if you don't
22 have a distribution crew leader or a Senior Service

1 Specialist No. 1 or No. 2 present; is that correct?

2 **A.** They would have to be there to make that
3 temporary repair.

4 **Q.** They would have to be there to make the
5 temporary repair?

6 **A.** Yes.

7 **Q.** Or the permanent repair?

8 **A.** Yes.

9 **Q.** Look down on the same page down at -- it's
10 the same page of the excerpt from the service
11 manual. Section A-2, it says, The work ticket
12 shall state the customer has been notified the gas
13 service will be interrupted if a permanent repair
14 is not made in a reasonable period of time.

15 You see that?

16 **A.** Yes.

17 **Q.** Why would a customer service be interrupted
18 absent completion of a permanent repair within a
19 reasonable time period?

20 **A.** Because it is intended for the temporary
21 repair not remain that way.

22 **Q.** Even though, as you told me, after

1 temporary repair, the situation's a safe situation?

2 **A.** You're still going -- again, it's a safe
3 situation. It's safe at that time, but you still
4 don't want to leave it as a temporary repair. You
5 eventually want to come back and make it a
6 permanent repair.

7 **Q.** And that's because there's a higher risk
8 that something could happen if you leave it as a
9 temporary repair?

10 **A.** You would not want to leave it as a
11 temporary repair, correct.

12 **Q.** Okay. Right under the Heading A in the
13 excerpt from the service manual that Mr. Gennett
14 provides as an exhibit, he says that it states that
15 the customer shall be advised of the temporary
16 nature of the repair and the need to complete the
17 permanent repair within a reasonable period of
18 time, typically, no more than five business days.

19 Do you see that?

20 **A.** Yes.

21 **Q.** It goes on to state that a field service
22 supervisor sets the time limit.

1 Do you see that?

2 **A.** Yes.

3 **Q.** A field service supervisor is not a union

4 employee; am I correct?

5 **A.** That's correct.

6 **Q.** Mr. Doerk, I take it that compliance with

7 the procedures in the field service manual is

8 considered by the Company to be essential to the

9 provision of safe, reliable and cost-effective

10 service?

11 **A.** Yes.

12 **Q.** And I take it that noncompliance with the

13 procedures would be inconsistent or the Company

14 would be regard it as inconsistent with safe,

15 reliable and cost-effective service?

16 **A.** Yes.

17 **Q.** Okay. If you can turn to your surrebuttal

18 testimony at Page 3. I'm looking at the question

19 and answer at Lines 47 to 55.

20 MR. STRAUSS: Give me a moment, your Honor.

21 THE WITNESS: Surrebuttal page?

22 BY MR. STRAUSS:

1 Q. Page --

2 JUDGE GILBERT: 3.

3 BY MR. STRAUSS:

4 Q. Page 3?

5 A. Okay.

6 Q. Lines 47 to 55.

7 A. Yes.

8 Q. You're responding there to a portion of

9 Mr. Gennett's rebuttal testimony in which he refers

10 to an August 1st meeting between you, Mr. Doerk,

11 and certain union officials.

12 Do you see that?

13 A. Okay. I'm sorry. I lost you.

14 I'm on Page 3.

15 Q. Page 3, Lines 47 to 55.

16 A. Right.

17 Q. Question begins on 47, your answer on 51.

18 A. Okay. Where is the -- about the union

19 meeting? In his rebuttal testimony, Mr. --

20 Q. Surrebuttal.

21 A. I thought I am -- I am in surrebuttal.

22 MR. ZIBART: Okay. I'm sorry.

1 What's the question?

2 THE WITNESS: I'm missing the date and you're
3 saying the -- his question doesn't say anything
4 about dates. It's talking about eight contracted
5 personnel as demonstrating an adequate employee
6 complement Peoples Gas.

7 BY MR. STRAUSS:

8 Q. I'm going to show you in a minute where
9 your testimony doesn't refer to the date. I'm
10 going to show the part of Mr. Gennett's testimony
11 where it does.

12 You're talking there about a meeting you
13 attended with certain union officials. You talked
14 about an outsourcing issue; is that correct?

15 A. Correct.

16 Q. Okay. If you turn to Mr. Gennett's
17 rebuttal testimony at Page 8, that's the Exhibit
18 UWUA 2.0.

19 A. I'm sorry. What's the page?

20 Q. Page 8.

21 A. Okay.

22 Q. At Line 6, Mr. Gennett discusses -- begins

1 to discuss a meeting that he had with you on
2 August 1st.

3 Do you see that?

4 A. Yes.

5 Q. Do you recall being present at that
6 meeting?

7 A. Yes.

8 Q. That meeting was called by the company, was
9 it not?

10 A. Yes.

11 Q. Mr. Gennett testifies at Lines 6 through 8
12 that the union leadership was informed at the
13 meeting that revenue collection gas cutoff work --
14 the Company was bringing in outside contractors to
15 conduct certain revenue collection cutoff work.

16 Do you see that?

17 A. Yes.

18 Q. Is that consistent with your recollection
19 of what was conveyed to the union officials at the
20 meeting?

21 A. Yes.

22 Q. The work that was discussed at the meeting,

1 that involves cutting off service to customers for
2 nonpayment of their bills, does it not?

3 A. That's correct.

4 Q. There are always customers who, for one
5 reason or another, fail to pay their bills and for
6 whom the Company decides to terminate the service;
7 isn't that correct?

8 A. That's correct.

9 Q. Cutoff work of the type that was discussed
10 at the meetings is undertaken by the Company every
11 day, is it not?

12 A. Cutoff -- yes.

13 Q. And the cutoff work that was being
14 discussed at this August 1st meeting, that involved
15 only exterior infrastructure; is that correct?

16 A. Correct.

17 Q. Didn't involve going into a customer's
18 dwelling; is that correct?

19 A. It did not.

20 Q. Would you say that work's relatively easy
21 to complete?

22 A. It's a matter of terminating service,

1 right.

2 Q. You don't need any special parts other than
3 a pipe wrench, do you?

4 A. Well, you would need a key to turn the gas
5 valve off.

6 Q. A key, is that what you said?

7 A. Yes.

8 Q. You'd need a key.

9 Okay. But would I be correct that this
10 work could be performed by entry-level company
11 employees?

12 A. That is correct.

13 Q. In fact, isn't it typically the case at
14 Peoples that entry-level union employees perform
15 this work?

16 A. They do.

17 Q. Is it correct that the Company seeks to
18 complete the revenue-related service cutoffs by the
19 end of November?

20 A. Yes.

21 Q. Why is that?

22 A. Well, on residential heating accounts,

1 there's -- that's when the disconnection period
2 ends, November 30th.

3 **Q.** So that's the case every year, is it not?

4 **A.** Correct.

5 **Q.** Mr. Gennett states on Page 8, if you look
6 at Lines 14 through 15, that this work has
7 historically been performed by the Company's own
8 work force.

9 Do you see that?

10 **A.** Yes.

11 **Q.** That's a correct statement, is it not?

12 **A.** That's correct.

13 **Q.** If you turn to Page 9 of Mr. Gennett's
14 testimony.

15 At Lines 8 through 9, Mr. Gennett states
16 that the union officials were informed by you,
17 Mr. Doerk, at the meeting that the work was being
18 shifted to contractors due to a lack of on-staff
19 resources.

20 Do you see that?

21 **A.** Yes.

22 **Q.** That's a correct statement, is it not?

1 **A.** Yes.

2 **Q.** Can you turn to your surrebuttal at
3 Page 3 -- strike that. I'm sorry. Let me ask you
4 a different question, Mr. Gennett -- I'm sorry,
5 Mr. Doerk.

6 What are inside safety inspections?

7 **A.** Inside safety inspections are really
8 requirement -- it's a service pipe inspection, but
9 because the meter's are inside, we're required to
10 test for a gas leak to the outlet of the meter.
11 Therefore, it's an inside -- it's called an inside
12 safety inspection.

13 **Q.** These inspections are federally mandated,
14 are they not?

15 **A.** That's correct.

16 **Q.** They're also known as compliance
17 inspections; is that correct?

18 **A.** It's a regulatory requirement to perform
19 these inspections.

20 **Q.** Peoples Gas was fined in 2007 for its
21 failure to conduct compliance inspections in 2006;
22 isn't that correct?

1 **A.** No, I believe it was fined for the years
2 2000 through 2004.

3 **Q.** For failure to conduct those inspections;
4 is that correct?

5 **A.** Correct.

6 **Q.** Was the fine roughly on the order of a
7 million dollars?

8 **A.** I thought it was a half a million dollars.

9 **Q.** At the time of the August 1st meeting when
10 you informed the union that eight contractors would
11 be brought in to do the revenue collection cutoffs,
12 was there a backlog of inside service inspection
13 work to be completed by Peoples?

14 **A.** A backlog, no.

15 **Q.** There was not?

16 **A.** No, we do -- we do them every year.

17 I mean, it's the same number that
18 they're roughly the last three years that we've
19 performed.

20 **Q.** At that time point in time, were you on
21 schedule to complete the ISI work at the appointed
22 time?

1 **A.** Yes.

2 **Q.** Is it correct that union employees who
3 would have otherwise done the revenue collection
4 cutoff work were shifted to work on ISIs? That's
5 inside service inspections.

6 **A.** We did have -- we did shift employees to
7 work on inside safety inspections, correct.

8 **Q.** Why was that necessary?

9 **A.** In order to accelerate the completion of --
10 to allow opportunity to disconnect them or
11 physically shut them off.

12 **Q.** No, why were the union employees shifted to
13 the inside service inspection work? We'll get to
14 the contractors in a minute.

15 Why were the -- why were the union
16 employees shifted to the inside service inspection
17 work?

18 **A.** To accelerate the completion of that work.

19 **Q.** To accelerate the completion of that work.

20 If the work was on schedule, why did it
21 have to be accelerated?

22 **A.** In order to allow time to do disconnects.

1 This was after you've given letters to
2 customers and you're no longer to gain access. I
3 mean, we have to be done by the end of year. We
4 are trying to acc- --

5 **Q.** You need to be what to be done by the end
6 of the year?

7 **A.** Inside safety inspections.

8 **Q.** All right.

9 **A.** So the plan was to accelerate it to get
10 done to allow time to do disconnections.

11 **Q.** You had not been informed by the ICC at
12 this time that there was a backlog on the ISI work
13 that needed to be addressed; is that correct?

14 **A.** Correct.

15 **Q.** So if I understand what you're telling me
16 then, you shifted union employees to inside service
17 inspections work and then hired contractors to do
18 revenue collection cutoffs that had to be completed
19 by the end of November. Do I have it right?

20 **A.** That's right.

21 **Q.** If you could turn to Page 5 of your
22 rebuttal testimony to Exhibit ED 2.0. I'm looking

1 at your answer at Lines 94 through a hundred.

2 That's a question and answer.

3 A. Expected retirement of current crew

4 leaders?

5 Q. That's correct, that Q and A.

6 A. Hm-hmm.

7 Q. The question you were asked there refers to

8 data supplied by Mr. Gennett on anticipated

9 retirements over the next ten years of crew leaders

10 and service specialists -- Senior Service

11 Specialists, Grade No. 1.

12 Do you see that?

13 A. Yes.

14 Q. You don't take issue with the accuracy of

15 Mr. Gennett's data on these points, do you, sir?

16 A. No.

17 Q. Crew leaders is the top-tier classification

18 among distribution department employees; is that

19 correct?

20 A. That's correct.

21 Q. And Senior Service Specialists, Grade

22 No. 1, is the top-tier classification among service

1 department employees; is that correct?

2 A. That is correct.

3 Q. When a crew leader position becomes open,
4 there's no obligation on the part of the Company to
5 fill that position with an eligible junior
6 employee; is that correct?

7 A. Correct.

8 Q. And the same thing would be true of about a
9 Senior Service Specialist No. 1.

10 When the position opens up, there's no
11 obligation on the part of the Company to fill it?

12 A. That's correct.

13 Q. The decision on whether to promote to
14 either of those classifications rests entirely with
15 the Company, does it not?

16 A. That is correct.

17 Q. If you turn to your surrebuttal at Page 2,
18 Lines 38 to 40.

19 A. Okay.

20 Q. You refer there to 46 new entry-level union
21 employees have been hired since March.

22 Do you see that?

1 **A.** Yes.

2 **Q.** These entry-level employees either have or
3 will have the job title of operations apprentices;
4 is that correct?

5 **A.** That's correct.

6 **Q.** None of these employees is hired as a crew
7 leader or a Senior Service Specialist No. 1; is
8 that correct?

9 **A.** That is correct.

10 **Q.** If you turn back to your rebuttal again at
11 Page 5 where we were a moment ago; at Lines 97 to
12 100, you're discussing how the Company will address
13 the expected retirements of crew leaders and Senior
14 Service Specialists No. 1.

15 Do you see that?

16 **A.** Yes.

17 **Q.** As I read your answer, you seem to be
18 saying that the Company plans to respond to the
19 retirements of the crew leaders and the Senior
20 Service Specialist No. 1s by continuing to do what
21 it has been doing previously; is that correct?

22 **A.** Correct.

1 **Q.** You don't propose in this passage the
2 implementation of any new system, any new program,
3 new initiative to deal with the up and coming
4 retirements; is that correct?

5 **A.** No.

6 **Q.** Would it be correct, sir, that the Company
7 doesn't plan to make any changes in its process to
8 address the work force replenish issues that the
9 union has raised in this proceeding?

10 **A.** We have -- I mean, we do this review every
11 year of our workload and of complement of
12 employees. It's an annual review.

13 **Q.** And you're not proposing in response to the
14 concerns that have been raised here, just so we're
15 clear, to do anything different than what you've
16 been doing before; isn't that correct?

17 **A.** That is correct.

18 **Q.** Does the Company have any specific plans to
19 hire additional employees who'd be charged with
20 making the replacement of distribution mains,
21 should the accelerated main replacement program be
22 adopted?

1 **A.** What -- I'm sorry. State the question
2 again.

3 **Q.** Does the Company have any specific plans
4 that you know of to hire additional employees who'd
5 be charged with making replacement of distribution
6 mains, should the accelerated main replacement
7 program --

8 **A.** Not at this time.

9 **Q.** -- and rider -- say again?

10 **A.** Not at this time.

11 **Q.** Not at this time.

12 Now, looking further down the page on
13 Page 5, you there discuss the union's one-for-one
14 proposal.

15 You see that?

16 **A.** Yes.

17 **Q.** That proposal involves the Company filling
18 employee vacancies that become open with qualified
19 internal employee candidates; is that correct?

20 **A.** That's correct.

21 **Q.** You state at Lines 108 and 109 that the
22 proposal is without regard for ongoing

1 technological innovations and infrastructure
2 upgrades.

3 Do you see that?

4 A. Yes.

5 Q. I want to make sure I understand your
6 concern there.

7 Is the Company's concern that -- is the
8 concern that if the proposal were adopted, the
9 one-for-one proposal, the Company might be
10 obligated to fill positions that will become
11 unnecessary as a result of technological changes or
12 an infrastructure upgrades?

13 A. That could be possible.

14 Q. That was the concern. That -- that's the
15 concern you're expressing there at the bottom,
16 right?

17 A. Yes.

18 Q. If you can take a look at Mr. Gennett's
19 rebuttal testimony at Page 16, Line 7 through 11.

20 A. Lines?

21 Q. 7 through 11. Okay.

22 You see that Mr. Gennett there states

1 that the one-for-one proposal should not be read to
2 require the Company to fill positions that have
3 been eliminated for the reasons you suggest at
4 Lines 108 and 109 of your rebuttal at Page 5?

5 **A.** Yes.

6 **Q.** In general, Mr. Doerk, the Company's
7 obligated to provide safe and reliable service, is
8 it not?

9 **A.** That's correct.

10 **Q.** And to meet the obligations, the Company's
11 required to have and to retain a qualified and
12 experienced work force; isn't that correct?

13 **A.** That's correct.

14 **Q.** All other things being equal, sir, is it
15 more likely or is it less likely that the Company
16 will have the work force it needs if it routinely
17 fills open vacancies with qualified internal
18 candidates?

19 **A.** State that again.

20 **Q.** All other things being equal, is it more
21 likely or is it less likely that the Company will
22 have the work force it needs if it routinely fills

1 open vacancies with qualified internal candidates?

2 A. I guess, yes.

3 Q. Okay. And all other things being equal, is
4 it more likely or is it less likely that the
5 Company can retain the work force it needs if it
6 routinely fills open vacancies with qualified
7 internal candidates?

8 A. It's possible.

9 Q. It's possible?

10 A. Yes.

11 Q. It's possible that it's more likely? I'm
12 just asking.

13 A. You're asking if people would expect to be
14 retained here.

15 Q. No, what I'm asking you is, more likely,
16 that the Company would retain the work force that
17 it needs, that it's sufficient size and
18 sufficiently trained, if, when a vacancy became
19 open, the Company filled it with a qualified
20 internal candidate?

21 A. If there was a need.

22 Q. If there was a need to fill the position?

1 **A.** Correct.

2 **Q.** Fair enough.

3 If you could turn to your rebuttal at

4 Page 3.

5 JUDGE MORAN: How much more do you have?

6 MR. STRAUSS: A few minutes. Not much more.

7 If you'd prefer, we can break for lunch

8 now and I can come back.

9 JUDGE MORAN: Well, we can finish and then --

10 JUDGE GILBERT: Yeah, why don't you finish. I

11 have a couple questions and then that probably

12 would be a good time to break because you can plan

13 your redirect during lunch.

14 MR. STRAUSS: Fair enough.

15 BY MR. STRAUSS:

16 **Q.** Turn to your surrebuttal at Page 3, your Q

17 and A at Lines 54 to 58. You're commenting there

18 on Mr. Gennett's statement that -- needed to

19 institute an in-house replenishment system.

20 Do you see that?

21 **A.** Yes.

22 **Q.** As I read your answer, you seem to be

1 saying that in-house replenishment requires two
2 things. First, it requires the Company to promote
3 employees internally to more responsible positions;
4 is that correct?

5 A. Say that again.

6 Q. In order to meet the in-house employee
7 replenishment concerns that have been raised, as I
8 read your testimony there at Lines 54 to 58, you
9 seem to be saying two things are necessary.

10 The first thing is that the Company
11 needs to promote internally employees to more
12 responsible positions as they open up?

13 A. That's what this is -- we've promoted
14 employees to higher positions.

15 Q. That's what that says, correct?

16 A. Yes.

17 Q. Okay. And the second thing you seem to be
18 saying is you're required to hire new entry-level
19 union employees; is that correct?

20 A. That's correct.

21 Q. You mentioned 51 employees have been
22 promoted to more senior positions. Those are

1 in-house employees who are being moved up the
2 ladder; is that correct?

3 **A.** That's correct.

4 **Q.** You have Mr. Gennett's rebuttal there. If
5 you take a look at Page of 6 of his rebuttal at
6 Lines 1 through 12.

7 You see that Mr. Gennett does an
8 analysis of where those employees have been moved
9 or why those employees have been promoted?

10 **A.** I see his -- I see his analysis, yes.

11 **Q.** You didn't comment on it in your rebuttal.
12 Do you take issue with it, sir?

13 **A.** I'm not sure what -- who he's referring to
14 about -- 34 workers among the ranks or more senior
15 positions were lost due to some form of attrition.
16 I -- I mean, I don't know that number.

17 **Q.** Well, of the 51 hourly employees that have
18 been promoted that you refer to on Page 3, how many
19 of them were promoted because of the attrition
20 reasons that Mr. Gennett references?

21 **A.** The promotions were based on a need in that
22 classification.

1 **Q.** So there was an opening?

2 **A.** Well, it was -- there was a need to promote
3 employees into that classification.

4 **Q.** And we don't know whether that need was as
5 a result of someone having left, someone having
6 been fired, someone --

7 **A.** Based on the workload.

8 **Q.** Those would be instances, those 51
9 instances, in which on a one-for-one basis more
10 senior positions became open and they were filled
11 by eligible junior employees; is that correct?

12 **A.** These promotions were upgrade from an entry
13 level position into a higher level position.
14 That's correct.

15 **Q.** Do you know into what job classifications
16 these 51 people were placed?

17 **A.** Yes. I believe 13 of them were to the crew
18 leader position, 30-something to the gas mechanic
19 classification, and eight to the Senior Service
20 Specialist No. 1 classification. I think that's
21 the breakdown.

22 **Q.** The eight people who were moved into Senior

1 Service Specialist No. 1, that was a result of the
2 obligation the Company took on as apart of the
3 settlement of the merger case; isn't that correct?

4 A. Correct.

5 Q. And I believe the 13 crew leader promotions
6 was as a result of the same thing, were they not, a
7 condition that was put on the Company in the merger
8 agreement?

9 A. No.

10 Q. It was not?

11 A. No.

12 Q. Other than -- let's talk about Senior
13 Service Specialist No. 1.

14 Other than the eight promotions that you
15 described, that you just mentioned to me that were
16 there as a result of a merger; in roughly the last
17 nine years, is it correct the Company has not moved
18 any junior employee into the Senior Service
19 Specialist No. 1 category?

20 A. I got to back up one second.

21 I think you're talking about the
22 conditions of the merger that did require certain

1 promotions to take place or upgrades. There were
2 some in the crew leader classification and the gas
3 mechanic classification; but based on need, the
4 Company made more.

5 I mean, it was part of our regular
6 evaluation that would have occurred anyway.

7 Q. Of the 13 crew leader positions, how many
8 were required by the conditions of the merger?

9 A. Eight or nine. I'd have to --

10 Q. And of the eight Senior Service Specialist
11 No. 1s, weren't they all required by the condition
12 of the merger?

13 A. That's correct.

14 Q. Okay. And other than those eight Senior
15 Service Specialists No. 1s, in the last nine years,
16 is it correct that the Company has moved no junior
17 employee into the Senior Service Specialist No. 1
18 category?

19 A. That would be true.

20 MR. STRAUSS: Okay. I don't have any further
21 questions.

22 JUDGE MORAN: Okay.

1 JUDGE GILBERT: Okay. I just have a couple for
2 you, Mr. Doerk.

3 EXAMINATION

4 BY

5 JUDGE GILBERT:

6 Q. Take a look at Page 13 of your direct.

7 A. For Peoples?

8 Q. Yes, for Peoples. I'm sorry. I want to
9 start on Page 16.

10 A. Page 16?

11 Q. Yes. And if you look at Line 344 and if
12 you just refresh yourself regarding that paragraph
13 that starts on Line 344.

14 A. Okay.

15 Q. With regard to the meter ranking index,
16 what are -- what is the -- describe the ranking
17 from top to bottom.

18 What's the lowest number you can have on
19 that range?

20 A. Zero.

21 Q. And it goes up to?

22 A. It could go up to -- again, the main

1 ranking is based on the amount of maintenance
2 activity that happens on a main.

3 So the more maintenance activity it had,
4 it can go to higher than six. It could be seven,
5 it could be eight. It's just that we put the
6 threshold at six. So we will replace any main that
7 reaches that -- six or higher, we will replace
8 immediately.

9 **Q.** Right. I understood why you said that.
10 I'm trying to get a sense of the entirety of the
11 index; in other words, how high it can go, how low
12 it can go.

13 **A.** Oh, I mean -- well, that's what I'm saying.

14 Based on the formula, you could have a
15 main rank. You run your calculations and you'd a
16 main rank of 9.7. You got a main rack of 16.4.
17 Typically, they don't go that high because as soon
18 as it hits the threshold, it's based on maintenance
19 activity. And as soon as it would go over six, we
20 would be replacing it to prevent it from going any
21 higher.

22 So you typically do not see very high

1 main ranking index numbers.

2 **Q.** Okay. And since I guess, theoretically,
3 you could go to infinity -- I'm sure that never
4 occurs -- what would be the highest you've ever
5 seen?

6 **A.** When the program first started, I remember
7 seeing numbers in the magnitude of 12. But, again,
8 you got to remember you're starting this program
9 from ground zero. So now, you're looking at all
10 your mains. Now, we are keeping up on this, that
11 any time they hit six.

12 So it's unlikely to see anything with a
13 very high ranking leaping, but when it first
14 started out, I've seen them as high as nine, ten,
15 but I would not anticipate seeing that type of
16 number, anymore.

17 **Q.** Is there a formal threshold at which a main
18 ranking number tells you that you have an
19 emergency, that you have to act immediately?

20 Is there a number above which or at
21 which you will take immediate action?

22 **A.** The way the main ranking works is we will

1 take action -- once the main ranking goes over six,
2 we will replace that segment of main.

3 It doesn't mean there's a leak on that
4 main or that there's any emergency on it. It just
5 means based on the maintenance, we don't want to
6 incur any future maintenance on it. We will
7 replace that. But it doesn't -- there doesn't even
8 have to be a leak on that main.

9 **Q.** Would something over six have to have a
10 leak in order to be higher than six?

11 **A.** What would generally -- the ranking is
12 based on several things. The ranking is based on
13 the type of material, the diameter, the -- if there
14 were leak repairs on that, how many main brakes
15 might have occurred on that particular segment.

16 It would be how many times we might have
17 dug up the main, exposed it and a crew does a
18 visual observation on it. They report on it.

19 It's based on the -- maybe a coupon
20 analysis and degradation of wall that we might have
21 taken on that pipe, and it's also based on the
22 other leaks that might have been repaired, joint

1 repairs.

2 Those all go into accumulating or
3 evaluating or coming up with what that number is.

4 **Q.** If you assess the segment using your MRI --

5 **A.** Okay.

6 **Q.** -- and you derive a number substantially
7 above six, will you take immediate action or is
8 that added to a list of things that will get action
9 in, let's say, the near future?

10 **A.** If it goes over six, we would replace it in
11 less than a year.

12 **Q.** Okay. And unless there is a leak, you do
13 not replace in something quicker than the time
14 frame less than a year?

15 **A.** I mean, depending on what was going on. If
16 we looked at it and there was other work that we
17 see was going on or there was a public improvement
18 job going on, it might be something we say, Hey,
19 we're going to initiate right away.

20 I mean, it could be done in first month
21 (sic).

22 **Q.** Okay. Now, let's go to Page 13.

1 And if you could look at the question
2 and answer beginning on Line 265. And I'm really
3 interested in just the first couple of sentences
4 there in that paragraph.

5 All right.

6 **A.** Okay.

7 **Q.** Could you describe quantitatively how the
8 FERC regulated services offset ratepayer costs?

9 **A.** Me personally, no.

10 **Q.** What did you intend to say when you said,
11 Which ultimately are an offset to ratepayer costs?

12 I mean, expand upon that a bit. What's
13 your intention?

14 **A.** I don't know how to answer that one.

15 **Q.** All right. Was this written for you?

16 **A.** I had help with this one.

17 **Q.** Okay. All right. Let's look at your
18 rebuttal, Page 6. In fact, let's start at the
19 bottom of 5 with the sentence that begins with the
20 word "while." And if you just want to read through
21 the end of that paragraph to refresh yourself.

22 **A.** Okay.

1 **Q.** All right. The impression I drew from
2 that -- tell me if this is what you intended and if
3 you believe it to be true.

4 The impression I drew is that you were
5 saying that a nonunion employee is more
6 cost-effective because a nonunion employees costs
7 less?

8 **A.** No, this has nothing to do with nonunion
9 employees. This is -- it has nothing to do with
10 nonunion employees.

11 **Q.** All right. Well, let's look at it as
12 having to do with union employees.

13 **A.** Okay.

14 **Q.** Are you saying that the Company will
15 reply -- will replace retiring union employees with
16 other union employees on a one-for-one basis, but
17 the Company must retain the right to manage its
18 work force to achieve the goals you described
19 describe there in the most cost-effective manner
20 for customers.

21 **A.** Hm-hmm.

22 **Q.** So flipping my question around, you seem to

1 be implying that unionized employees are more
2 expensive; is that correct?

3 **A.** No, that's not the intent here.

4 The intent was that if you had a
5 category of employees and it's the highest paid
6 classification and there's not a need to have
7 everybody at that layer, it's not prudent just to
8 promote people on one-for-one basis.

9 If you had somebody retire and you
10 didn't have a need for it, you wouldn't do it.
11 That's how you would be prudent to the ratepayer.

12 **Q.** All right. Are your highest paid employees
13 doing the kind of work you're describing here? And
14 I'm -- you know, I'm not sure I exactly know --

15 **A.** Well, this is just --

16 **Q.** -- what you -- let me finish the question.

17 Are you -- are your highest paid
18 employees doing whatever work you are describing in
19 that paragraph unionized employees?

20 **A.** It's just a general statement. I mean, you
21 could have somebody retired that's not the highest
22 union-rated employee.

1 This is just a general statement that it
2 will be evaluated that if there's a need to
3 replace, that the Company will replace it. There
4 might be a need to replace two for one, if there
5 was a workload that you needed that experience in
6 order to accomplish.

7 **Q.** Okay. Well, let's just take my question,
8 though, on its face.

9 Would the workers doing the work you are
10 referring to in that paragraph, would the highest
11 paid of those workers tend to be unionized
12 employees?

13 **A.** I mean, this is referring to the whole
14 union work force, in general, whether they're the
15 highest paid, middle paid, entry level.

16 **Q.** Okay.

17 **A.** That's what it's referring to. It's not
18 referencing just the highest ranking union person.

19 **Q.** No, I know what you're referring to.

20 If we were to simply take your testimony
21 on its face and not ask questions about it -- and
22 that would be fine, I guess, but I'm actually

1 asking you a question to expand upon or probe into
2 what you have said. And I will confine it to
3 Local 18007. I think that was an appropriate point
4 on your part.

5 Insofar as you are referring there to
6 employees who are members of Local 18007, would the
7 highest paid employees doing the work you're
8 referring to in that paragraph be members of
9 Local 18007?

10 **A.** Yes.

11 **Q.** Okay. And I just have one more on your
12 surrebuttal and I'm done.

13 Page 3, and I'm directing you to the
14 question beginning on Line 57 on Page 3 and your
15 answer there.

16 **A.** Okay.

17 **Q.** All right. You're referring to
18 Ms. Hardin's objection to what is described there
19 as the lost margin provision and you are informing
20 us there in your answer that the Company is willing
21 to remove the lost margin language.

22 What is your understanding of the

1 meaning of lost margin?

2 **A.** I'll tell you, I'm just not quite sure.

3 **Q.** Okay. Someone else maybe helped you with

4 this one, too?

5 **A.** Yes.

6 JUDGE GILBERT: Okay. Fair enough. I'm done.

7 Thank you.

8 MR. ZIBART: Lunch?

9 JUDGE GILBERT: Do you want to do redirect?

10 MR. ZIBART: Yes, I'm going to have a few

11 questions on redirect.

12 JUDGE GILBERT: Okay. Yeah, I think we're

13 probably well past what we would have been at

14 lunchtime. So why don't we take -- what do you

15 think -- an hour?

16 JUDGE MORAN: Yes.

17 JUDGE GILBERT: All right. If you could be back

18 at 2:20 and we'll start with redirect of Mr. Doerk.

19 (Whereupon, a luncheon

20 recess was taken to resume

21 at 2:20 p.m.)

22

1 (afternoon session.)

2 JUDGE MORAN: Okay. Our next witness is....

3 MR. ZIBART: I have a couple of questions for
4 Mr. Doerk.

5 REDIRECT EXAMINATION

6 BY

7 MR. ZIBART:

8 Q. Mr. Doerk, just before the break Judge
9 Gilbert asked you a question about a lost margin.
10 Is there somebody in the company who
11 might be able to answer?

12 A. Yes, Mr. Tom Zack.

13 Q. Lost margin?

14 A. Ms. Valerie Grace will be able to clarify
15 things about the lost margin issue raised.

16 Q. And then Judge Gilbert also asked about the
17 high-pressure view project and some of the specific
18 benefits.

19 Is there someone who would be able to
20 discuss some of those specific benefits?

21 A. Yes, Mr. Tom Zack will be able to address
22 some of those benefits when he comes up tomorrow.

1 **Q.** Mr. Strauss asked you if the company's
2 staff to meet peak demand -- do you remember that?

3 **A.** Yes.

4 **Q.** Do the companies need more employees at
5 times of peak demands?

6 **A.** Not necessarily.

7 **Q.** Does the -- or I'm sorry. Do the companies
8 work forces and their work force needs fluctuate
9 from time to time?

10 **A.** Yes, they do.

11 **Q.** How do the companies staff their work
12 forces to meet those fluctuations?

13 **A.** It would be either through the use of
14 overtime or through the use of contractors.

15 **Q.** And so what does the company do if the work
16 that needs to be performed requires extra
17 personnel?

18 **A.** It would be through the use of overtime or
19 hiring contractor personnel.

20 MR. ZIBART: Those are all the questions I have
21 on redirect.

22 JUDGE MORAN: Okay. Is there any recross?

1 Hearing none, the witness is excused.

2 And thank you so much for coming in.

3 And I guess the next witness is

4 Mr. Adams.

5 MR. RATNASWAMY: Your Honor, there is a
6 procedural question which you may or may not be
7 ready to entertain which is, as you may recall,
8 there's 10 or 11 witnesses, one of them is a panel
9 for whom the parties do not have any
10 cross-examination scheduled, but the ALJs indicate
11 they might have questions for some of those
12 witnesses, so especially for the witnesses that are
13 out of town, but really I think all of them -- I
14 think several of the parties would like to know if
15 you're ready to give any further direction on that?

16 JUDGE MORAN: Okay.

17 JUDGE GILBERT: Yeah. I'm sorry to say I'm not
18 right now.

19 MR. RATNASWAMY: Okay.

20 JUDGE GILBERT: I'm working pretty diligently to
21 get ready and hopefully tomorrow morning I can
22 clarify that. I mean, my preference is not to

1 require anybody to come in even someone who's
2 local.

3 So working within that framework, I'll
4 let you know tomorrow.

5 MR. RATNASWAMY: Thank you, your Honor.

6 JUDGE MORAN: And now we can do Mr. Adams.

7 THE REPORTER: Can I have your name?

8 MS. PASULKA-BROWN: Kathleen Pasulka-Brown,
9 P-a-s-u-l-k-a, dash, Brown.

10 (Witness sworn.)

11 MS. PASULKA-BROWN: Good afternoon, your Honors.

12 MR. MICHAEL J. ADAMS,
13 called as a witness herein, having been first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY

17 MS. PASULKA-BROWN:

18 **Q.** Mr. Adams, could you please state your name
19 for the record.

20 **A.** Michael Adams, A-d-a-m-s.

21 **Q.** And, Mr. Adams, by whom are you currently
22 employed and what's your position?

1 **A.** I am a vice president with Consentric
2 (phonetic) Energy Advisors, Incorporated.

3 **Q.** Are you the same Michael Adams who prepared
4 and filed direct, rebuttal and surrebuttal
5 testimony in this proceeding on behalf of North
6 Shore Gas Company and Peoples Gas Light and Coke
7 Company?

8 **A.** I am.

9 **Q.** Do you have any changes or additions to
10 make your direct, rebuttal or surrebuttal
11 testimony, Mr. Adams?

12 **A.** I do not.

13 **Q.** So if I asked you the same questions as are
14 set forth in your testimony, you would give me the
15 same?

16 **A.** I would.

17 MS. PASULKA-BROWN: Your Honors, at this time we
18 would like to request the admission of North Shore
19 NS Exhibit MJA 1.0, NS Exhibit MJA 1.1, NS Exhibit
20 MJA 1.2, PGL Exhibit MJA 1.0, PGL Exhibit MJA 1.1,
21 PGL Exhibit MJA 1.2, NS-PGL Exhibit MJA 1, and
22 NS-PGL Exhibit MJA 2.1 and NS-PGL Exhibit MJA 3.0,

1 all of which have been filed electronically.

2 And we also tender Mr. Adams for
3 cross-examination.

4 JUDGE MORAN: If I can just be a little --

5 JUDGE GILBERT: All right. Rather than repeat
6 all of those exhibit designations, I would ask if
7 there is an objection to any of those? And please
8 identify what you're objecting to if there is an
9 objection.

10 There is none. All right it's all
11 admitted. All of those that were enumerated by
12 Ms. Pasulka-Brown are admitted subject to cross.
13 (Whereupon, NS Exhibit MJA No. 1.0 to 1.2, PGL
14 Exhibit MJA 1.0 to 1.2, NS PGL Exhibit MJA 1 to 3.0
15 were admitted into evidence.)

16 CROSS-EXAMINATION

17 BY

18 MR. FEELEY:

19 Q. Good afternoon, Mr. Adams. My name is John
20 Feeley and I represent the staff.

21 A. Good afternoon.

22 Q. If I could direct your attention to your

1 direct testimony, Page 18 and 19, at the bottom on
2 Page 18 there carrying over to Page 19.

3 A. Which company?

4 Q. Look at the North Shore one.

5 A. Okay.

6 Q. All right. In your testimony for both
7 Peoples and North Shore, you testified about cash
8 working capital, right?

9 A. Yes.

10 Q. On Page 19 there -- Page 18 and 19 you see
11 your testimony you state that if prepared properly,
12 the two methodologies should produce identical
13 results.

14 Do you see that in your testimony?

15 A. Yes, sir.

16 Q. And the methodologies you're referring to
17 are the gross and the net lag methodologies,
18 correct?

19 A. Correct.

20 Q. Okay. Now, you've testified on this
21 subject of cash working capital before the
22 Commission before, correct?

1 **A.** Yes, I have.

2 **Q.** And, in fact, you recently testified in
3 Ameron dockets -- Ameron Electric Dockets 06-0070
4 through 72, correct?

5 **A.** Correct.

6 **Q.** And you also testified in an IP Docket --
7 let's see -- 04-0476?

8 **A.** Correct.

9 **Q.** Okay. Now, in this docket, you don't have
10 a problem with using either the gross method or the
11 net method, correct?

12 **A.** Not if applied properly, no.

13 **Q.** But back in the Ameron Illinois utilities
14 docket -- do you recall your testimony in that
15 case?

16 **A.** I do.

17 **Q.** All right. And in that case, actually you
18 testified against the gross lag methodology,
19 correct?

20 **A.** Because it wasn't applied correctly,
21 correct.

22 **Q.** Pardon me?

1 **A.** It was not applied correctly, correct.

2 **Q.** Well, I have a copy of your testimony

3 there.

4 MR. FEELEY: Can I approach the witness?

5 JUDGE MORAN: Yes, you may.

6 BY MR. FEELEY:

7 **Q.** If I direct your attention to your

8 testimony from the Ameron dockets, Page 38, Line

9 768 through 770 -- do you see your testimony there?

10 **A.** I do.

11 **Q.** Okay. At Lines -- beginning on Line 768

12 you testified to the following -- you said, Finally

13 the gross lag methodology produces results which

14 are counter intuitive when compared with the

15 results that are used using the net lag

16 methodology.

17 And you don't have any qualification on

18 that testimony there about the method of doing the

19 gross lag methodology, do you?

20 **A.** I'm specifically referring to staff witness

21 Ebreeze's (phonetic) gross lag methodology, if

22 that's the question.

1 **Q.** Well, look at Line 762 after you state that
2 I disagree with the use of the gross lag
3 methodology for several reasons, correct?

4 **A.** Yes.

5 **Q.** So you were testifying about the -- that
6 methodology in general, correct?

7 **A.** But more specifically as applied by staff
8 Witness Ebreeze.

9 **Q.** But generally in that docket you were
10 against the gross lag methodology, correct?

11 **A.** Yes. As staff Witness Ebreeze used it,
12 yes.

13 **Q.** But in this case you're indifferent between
14 the gross lag and the net lag?

15 **A.** As long as it's applied properly, yes.

16 **Q.** Let's see. I have a document -- do you
17 have Mr. Kahle's testimony in front of you or if
18 you don't --

19 **A.** Which one?

20 **Q.** Pardon?

21 **A.** Direct or rebuttal?

22 **Q.** His -- I'll just give it to you.

1 Okay. I've handed you an attachment to
2 Mr. Kahle's rebuttal testimony, 15.0 corrected
3 Attachments A and B.

4 Do you have that in front of you?

5 **A.** I do.

6 **Q.** Okay. And there's a disagreement between
7 you and Mr. Kalhe about what to do with real estate
8 taxes, correct, computing the cash working capital?

9 **A.** It probably should be treated within the
10 analysis, yes.

11 **Q.** Okay. Do you see Attachment A to
12 Mr. Kahle's testimony, in particular Line 27?

13 **A.** I do.

14 **Q.** And the description is real estate taxes.

15 Do you see that?

16 **A.** Yes.

17 **Q.** Okay. And that Attachment A, that's from
18 your testimony in the IP Docket 04-0476, correct?

19 **A.** Correct.

20 **Q.** Okay. And do you see Attachment B, there's
21 three pages -- do you have that in front of you?

22 **A.** Yes.

1 **Q.** Okay. And these were exhibits from your --
2 those are exhibits from your testimony in the
3 Ameron Dockets 06-070 through 72, correct?

4 **A.** Correct.

5 **Q.** Okay. And for the Ameron dockets, do you
6 see Line 14, the description there of property real
7 estate taxes?

8 **A.** I do.

9 **Q.** Okay. Didn't Mr. Kalhe treat real estate
10 taxes the same way that you treated them in the
11 Ameron dockets and the IP docket that is as a
12 separate item?

13 **A.** He treated real estates the same as I did
14 in the two dockets. The difference is all the
15 other taxes are itemized here, whereas the analysis
16 I presented in this proceeding, they were all
17 grouped in a bucket, basket, whatever words you
18 want to use. He has singled out real estate taxes
19 separately which gives it a totally different
20 meaning than how it's treated here because their
21 dollar weighted in the analysis and by breaking out
22 this one item, which has a very small dollar amount

1 as far as the expense, but a very long lead time,
2 he has given more weight to that particular item
3 with shorter lead times.

4 So he's treated it different than I did
5 in these analyses.

6 Q. Now, those Ameron dockets and IP docket,
7 you treated them separately, correct?

8 A. I treated all of the taxes separately,
9 which as in this case, he still left all the others
10 bundled.

11 Q. All right. I have another document for you
12 to look at.

13 MR. FEELEY: Can I approach the witness?

14 JUDGE MORAN: Yes, you may.

15 BY MR. FEELEY:

16 Q. I'm going to hand you a set of documents
17 rather than get up and down a number of times.
18 We'll just go through these. I'll let you know
19 which ones I'm asking about.

20 Okay. You had a work paper for Schedule
21 B8, correct?

22 A. The company, yeah.

1 **Q.** Okay. Do you have -- I've handed you a
2 copy of WPB-8 work papers. Do you have that in
3 front of you? That's the thickest document stapled
4 together.

5 **A.** Okay.

6 **Q.** All right. If you go to the third to last
7 page of that work paper for Schedule B8, it's Page
8 95 or 99. It's actually on the back of the third
9 to last page.

10 **A.** Okay.

11 **Q.** Do you have that?

12 **A.** Yes.

13 **Q.** Okay. There's a dollar figure shown there
14 for taxes, correct?

15 **A.** Taxes other than income taxes, yes.

16 **Q.** And it's approximately \$224 million?

17 **A.** Correct.

18 **Q.** Okay. I also gave you -- or -- the first
19 page of that document -- one second, please. I'm
20 sorry.

21 There's a single page Schedule B8 that I
22 also hand you?

1 **A.** Yes.

2 **Q.** Do you have that in front of you?

3 MS. PASULKA-BROWN: It's Page 2 of 2.

4 MR. FEELEY: There's two pages to that. Look at

5 Page 1 of 2.

6 BY MR. FEELEY:

7 **Q.** Do you see the line for Line 6, taxes other

8 than income?

9 **A.** Yes.

10 **Q.** Okay. When you did your study, you

11 included real estate taxes in a group of 224

12 million, correct?

13 **A.** Yes.

14 **Q.** When you calculated lead days?

15 **A.** Correct.

16 **Q.** But when you took that calculation and

17 applied it, you only -- you only included

18 approximately \$17.6 million in real estate -- in

19 taxes, correct?

20 **A.** Correct.

21 **Q.** So you didn't include approximately 206

22 million in your Schedule B8, correct?

1 **A.** Correct.

2 **Q.** Did you base your lead day study on figures
3 that are not part of the cash working capital
4 calculation?

5 **A.** Repeat the question.

6 **Q.** Did you base your lead days study on
7 figures that are not part of the cash working
8 capital calculation?

9 **A.** No.

10 **Q.** But you're cash working capital calculation
11 is based upon days that are included in your --
12 that are -- again, there are -- when you came up
13 with your cash working capital calculation, there
14 are dollars that are not included in your
15 calculation, correct, by you excluding
16 approximately \$224 million?

17 **A.** The ultimate expense lead to which the
18 dollars -- the dollars to which the expense lead
19 was applied don't have all the taxes in them, but
20 when we calculated the expense lead, all dollars
21 were considered.

22 **Q.** All right. Okay. I direct your attention

1 to your surrebuttal testimony, Page 9. One second,
2 please.

3 Lines 180 to 181. Do you see your
4 testimony there?

5 A. I do.

6 Q. You state that net income represents the
7 amount of money which is available for distribution
8 to the shareholders after all obligations are paid.

9 That's your testimony?

10 A. Yes.

11 Q. Okay. Do you have Schedule D9 in front of
12 you? There's one for North Shore and one for
13 Peoples Gas.

14 A. I do.

15 Q. And Schedule D9 is the income statements
16 for Peoples and North Shore, correct?

17 A. Correct.

18 Q. Okay. And for North Shore, it shows a net
19 income of 6,707,000; is that correct?

20 A. Yes.

21 Q. And for Peoples Gas, it shows a negative
22 35,611,000, correct?

1 **A.** Correct.

2 **Q.** Was -- were the net incomes for North Shore
3 and Peoples Gas the result of cash transaction
4 accruals and deferrals?

5 **A.** I don't -- I didn't prepare the income
6 statements. I don't know.

7 **Q.** Well, what's the net income -- let's take
8 North Shore.

9 What's -- what's that net income the
10 result of?

11 **A.** Expenses minus revenues.

12 **Q.** So accruals aren't included in there?

13 **A.** No. I don't know. As I said, I didn't
14 prepare this.

15 **Q.** Okay. And then, again, it's your
16 testimony -- you had this in your surrebuttal --
17 that net income represents the amount of money
18 which is available for distribution to shareholders
19 after all obligations are paid, correct?

20 **A.** Yes.

21 **Q.** Okay. Do you have the 10K in front of you
22 that I handed?

1 **A.** I do.

2 **Q.** And if you go to about the second to last
3 page -- this is, actually, just the first 45 pages
4 of the 10K.

5 Do you have that in front of you? And
6 you're looking at the 10K for Peoples as of
7 September 30th, 2006, correct?

8 **A.** Yes.

9 **Q.** Okay. For -- would you agree that that
10 document shows that Peoples Energy Corp. Showed a
11 net loss, but still paid dividends?

12 **A.** Yes.

13 **Q.** Okay. So that they had a net -- a negative
14 net income, correct?

15 **A.** Correct.

16 **Q.** And then you testified the net income
17 represents the amount of money which is available
18 for distribution to shareholders after all
19 obligations are paid.

20 How can you declare dividends if you
21 have a negative income?

22 **A.** Because there's retained earnings.

1 Q. And what's your definition of "retained
2 earnings"?

3 A. It's basically the equity in the company.

4 Q. Okay. So --

5 A. You don't start fresh every year, in other
6 words.

7 Q. Despite --

8 A. You don't start fresh.

9 Q. Despite a negative income, the company paid
10 dividends, right, you're saying, because of
11 retained earnings?

12 A. I wasn't involved in the decision of the
13 dividends. I don't know why they did it.

14 Q. Then the last document, you have the Part
15 285 Schedule B8 --

16 MS. PASULKA-BROWN: I don't think we have it.

17 BY MR. FEELEY:

18 Q. -- for Peoples Gas?

19 A. You said D8?

20 Q. B, as in boy.

21 A. Okay.

22 Q. Okay. And go to Page 2 of the one for

1 Peoples Gas.

2 In your Schedule B8, Page 2, did you
3 deduct the net incomes that show up at the bottom
4 from revenues in your cash working capital
5 calculations?

6 A. You're referring to Line 4?

7 Q. Down at the bottom, the -- in your cash
8 working capital requirement calculation, do you
9 deduct net income from revenues to come up with
10 your final amount?

11 A. Yes, it's Line 4. If you look at the
12 footnote it says, Part of the laws for that fiscal
13 year.

14 Q. So "yes"?

15 A. Yes.

16 Q. All right. Would you agree that the pain
17 of payroll is a part of a company's day-to-day
18 operations?

19 A. What type of payroll?

20 Q. Employee payroll.

21 A. Are you talking about the capitalized or
22 expense portion?

1 **Q.** Payroll.

2 When the company cuts a payroll check to
3 an employee, is that part of the company's
4 day-to-day operations?

5 **A.** Yes.

6 **Q.** Okay. Would you agree that if the company
7 has sufficient cash on hand to pay payroll, then it
8 is not necessary for rate payers to provide that
9 same cash working capital?

10 **A.** Can you repeat.

11 **Q.** Would you agree that if the company has
12 sufficient cash on hand to pay payroll, then it is
13 not necessary for rate payers to also provide that
14 same cash working capital?

15 **A.** It depends on the source of who provided
16 the funds that are available.

17 **Q.** So the source -- even though there's cash
18 on hand to pay it, in your opinion, it depends on
19 where the source of that cash came from?

20 **A.** It depends on --

21 **Q.** Whether it should be included in cash
22 working capital?

1 **A.** Whether the expense should be included in
2 the cash working capital, yes. It depends, you're
3 getting to Staff Witness Kahle's witness.

4 **Q.** I asked you my question here. I didn't
5 mention Mr. Kalhe in the question.

6 **A.** Is there a question pending? I'm sorry?

7 MS. PASULKA-BROWN: Go ahead and finish your
8 answer.

9 BY MR. FEELEY:

10 **Q.** Do you want me to say the question again?

11 **A.** Please.

12 **Q.** Would you agree that if the company has
13 sufficient cash on hand to pay payroll, then it is
14 not necessary for rate payers to also provide that
15 same cash working capital?

16 **A.** Are you asking a question in the context of
17 cash working capital analysis?

18 **Q.** Yes. I'm trying to come up with a cash
19 working capital.

20 **A.** It's appropriate to consider the operating
21 payroll in the cash working capital analysis to
22 determine ultimately what amount of funds is either

1 provided by investors or customers.

2 Q. Okay. Can I direct your attention to your
3 surrebuttal testimony, Lines 223 to 226. Let me
4 know when you've had a chance to review that.

5 A. Okay.

6 Q. Beginning at Lines 223 through 226, you
7 state that, simply stated, The company's revenue
8 requirement, either revenues consist of a return on
9 assets and recovery of operating expenses. There's
10 no component of Staff Witness Kahle's proposed
11 revenue screen which pertains to the recovery of
12 capitalized wages and benefits.

13 Now, would it be correct to say that
14 it's your logic that the point of cash working
15 capital is to recover expenses? Is that what
16 you're -- is that your reasoning for your position?

17 A. My testimony is that under the gross lag
18 methodology, you should be considering the expenses
19 for which there is a corresponding revenue. And
20 there is no corresponding revenue for the
21 capitalized payroll expenses.

22 Q. So a cash working capital adjustment is

1 that to recover expenses; is that your --

2 **A.** That has nothing to do with the recovery of
3 the expenses. It's what expenses you're comparing
4 to the revenue stream. Under this particular --
5 what I'm referring to here, Staff Witness Kahle --
6 I apologize if I'm mispronouncing that -- has
7 included capitalized as well as operating expenses,
8 but is only including -- to do the analysis
9 correctly if he wanted to include the capitalized,
10 he should also include a revenue stream associated
11 with those which would be -- if done properly, the
12 best way I could figure out how to do it would be
13 to include the return of and on -- excuse me --
14 return of the capitalized payroll expenses in the
15 revenue analysis and you'd have a lead time,
16 revenue lag on that depending on what the
17 depreciable life is upwards of 40 years.

18 **Q.** If the company's new requirement allows
19 revenue of the capital items on recovery of
20 operating expenses, then is there no need for a
21 cash working capital since both are already being
22 recovered?

1 **A.** This has got nothing to do with the
2 recovery of the expenses. This is determining cash
3 working capital based on expense levels and cash
4 flows.

5 **Q.** Okay. So would you agree that the purpose
6 of having a cash working capital in rate base is to
7 allow for the effects of cash lags and leads to be
8 added to a rate base and not the actual recovery of
9 assets or cash outlays?

10 **A.** Yes.

11 MR. FEELEY: Thank you, Mr. Adams. That's all I
12 have.

13 THE WITNESS: Thank you.

14 MS. PASULKA-BROWN: Could I have just a moment.

15 JUDGE GILBERT: Well, I have a bit. I just want
16 to see if anyone else wanted to chime in.

17 So I assume there's no other cross?

18 EXAMINATION

19 BY

20 JUDGE GILBERT:

21 **Q.** Let me put this in the form of a
22 proposition and please take issue with it as you

1 will.

2 With regard to the real estate taxes,
3 both with respect to the two companies you're
4 testifying for here and also with respect to Ameron
5 and IP according to the exhibits that Mr. Feeley
6 called your attention to, real estate taxes do have
7 a very long lead time relative to the other items
8 that are included in the lag analysis.

9 Conceptually, is there something
10 inherently wrong with making the decision to take
11 an item that is so different in a relative sense
12 from the other items and treating that a part from
13 your basket of taxes?

14 For example, is there an accounting
15 reason why that's just simply not an appropriate
16 choice to make? Is there some other basis other
17 than the fact that you disagree with it? Is there
18 a basis for saying making that choice is
19 inappropriate?

20 **A.** I think it's just an inconsistent
21 treatment. I mean, real estate taxes were
22 considered in both staff's analysis and in my

1 analysis. They were given the weight based upon
2 lead time in my analysis. It's just that when you
3 break them out, they're no longer dollar weight.
4 The impact is much greater under staff's approach
5 than it is under my approach because it is given
6 separate treatment when everything else -- when
7 there's much larger dollars involved with the other
8 taxes, no consideration is given to that.

9 So it's itemizing one item that's got an
10 extremely long lead time, but a small dollar
11 amount, but giving no such treatment to those that
12 have very large dollar amounts and very short lead
13 times. That's why, to me, you either present it as
14 a basket, as I did in this proceeding, or you
15 present them all individually.

16 I don't have a problem with either one
17 of those approaches, but don't pick and choose what
18 you're going to apply.

19 **Q.** Okay. Is there an item in your basket that
20 has the very short lead time you're describing?

21 **A.** Yes.

22 **Q.** For instance, there's FICA, which has the

1 15-day lead time and it's \$14 million versus the
2 lead time for real estate taxes which has only two
3 dollars -- 2 million. So, I mean, there are
4 shorter lead times. The FICA taxes are paid on the
5 same time frame as the payroll.

6 **A.** You know, under the staff's approach, I
7 would think that you would argue that that should
8 be itemized as well.

9 **Q.** Yeah. I guess for decision-making
10 purposes, I'm trying to understand the conceptual
11 book here and one could argue that your basket is
12 inappropriately formed if it has items that have
13 dramatically different lead times from the vast
14 majority. I'm saying there's another way to look
15 at it and I understand your point as well and I
16 understand the distortion you say occurs because --

17 **A.** I can tell you if I were to itemize my
18 basket, I'd get the same exact result that I
19 currently am presenting. So it's just taking out
20 the one item and itemizing that that you get a
21 lower cash working capital requirement. And that's
22 my issue with staff's analysis.

1 **Q.** But you said you'd have exactly the same
2 result?

3 **A.** Because of the dollar weight. If you
4 itemize them and/or present them as a -- but when
5 you have a basket and then single out real estate
6 taxes, such as staff has done, it lowers the cash
7 working capital requirement because there's undue
8 weight given to the real estate taxes.

9 **Q.** In your surrebuttal, Page 8 at Line 66, you
10 refer to some only issues which remain. Those
11 would be issues between yourself and the Staff
12 Witness Kahle. Now, as I read further, it seemed
13 to me there was a difference about the inclusion of
14 past due taxes and the cash working capital
15 analysis.

16 Did you not view that as a third item?
17 Did you feel like that was a subset of another
18 item?

19 **A.** The reason I say it's not an issue because
20 past due taxes were only considered for purposes of
21 determining the expense lead. Staff Witness Kahle
22 uses the exact same expense lead that I do. So

1 while he argues it shouldn't be included, his
2 expense lead is the same as mine. So there's not
3 really an issue.

4 Q. But the difference is whether you include
5 it or not?

6 A. Right, but he's saying he hasn't included
7 it and his expense lead is the same as mine.

8 JUDGE GILBERT: I wanted to ask him to make sure
9 that the agreement is, in fact, an agreement. That
10 clarifies it for me. I'm done. Thank you.

11 (Whereupon, a discussion was had off the record.)

12 MS. PASULKA-BROWN: We're ready, your Honors.

13 JUDGE MORAN: Any redirect?

14 MS. PASULKA-BROWN: Just shortly.

15 REDIRECT EXAMINATION

16 BY

17 MS. PASULKA-BROWN:

18 Q. Mr. Adams, I want to go back to the
19 discussion that you had with counsel about the
20 consideration of payroll in the gross lag
21 methodology and I want you to just explain why it's
22 appropriate to consider operating payrolls in a

1 gross lag methodology.

2 **A.** Well, as I stated in both my rebuttal and
3 surrebuttal testimony, the analysis that's been
4 performed really looks at the operating expenses
5 only because that's the revenue stream that's also
6 reflected in gross lag methodology presented by
7 staff to start entering or bringing up other items
8 related to capitalized payroll, as I said in my
9 testimony.

10 So, therefore, you've got an imbalance
11 between the revenues and the expenses that I
12 believe is inappropriate cash working capital
13 analysis. So either you have to include a revenue
14 stream for the capitalized payroll, which if you're
15 going to introduce that as far as an expense, or
16 you exclude it from the expenses.

17 **Q.** Thank you.

18 And one other question with respect to
19 Judge Gilbert's questions on the real estate taxes.

20 Is there any difference between the
21 methodology you used in the prior cases and the
22 methodology you used in this case with respect to

1 real estate taxes and cash working capital
2 analysis?

3 **A.** The methodologies were exactly the same.
4 It's just for presentations purposes for the tax I
5 put into one line, whereas in the other cases, I
6 presented each individual tax separately. The
7 result is the same.

8 **Q.** And that's because of the waiting?

9 **A.** That's correct.

10 MS. PASULKA-BROWN: That's all we have, your
11 Honor.

12 JUDGE MORAN: Any redirect?

13 JUDGE GILBERT: No, recross.

14 JUDGE MORAN: I mean recross.

15 JUDGE GILBERT: I actually have another question
16 which may prompt both additional redirect and
17 recross and that will be my responsibility, I
18 guess.

19 FURTHER EXAMINATION

20 BY

21 JUDGE GILBERT:

22 **Q.** It seems to me that your critique of

1 Mr. Kahle's testimony is saying that he's not, in
2 fact, doing a lead lag analysis with respect to
3 capitalized items because he's only doing one end
4 of that analysis with respect to capitalized items;
5 is that correct?

6 **A.** My criticism is he says he includes all
7 cash flows, cash in and cash out, that's just not a
8 true statement. He's only including one item,
9 which is the capitalized payroll. There are, you
10 know, a number of other capitalized items which are
11 not included in that analysis and, as presented,
12 should not be.

13 **Q.** Well, maybe I'm responding to tone or
14 subtext; but as you discussed how you would do an
15 analysis using the capitalized items, you kept
16 saying things like, Well, if I had to do it that
17 way, this is how I would do it.

18 So I gather that you feel that the use
19 of any is inappropriate and that the use of all
20 would not fix the problem; is that correct?

21 **A.** If you had a way to include a revenue
22 stream associated with all the capitalized items,

1 **A.** My name is Ronald J. Amen. The last name

2 A-m-e-n.

3 **Q.** And what is your current business address?

4 **A.** My current business address is 17606

5 Northeast 109 Court, Redmond, Washington.

6 **Q.** And are you the same Mr. Amen who has filed

7 direct testimony and exhibits, rebuttal testimony

8 and exhibits and surrebuttal testimony in this

9 proceeding?

10 **A.** Yes.

11 **Q.** Mr. Amen, by whom are you presently

12 employed?

13 **A.** I'm employed by Consentric Energy Advisors,

14 Inc.

15 **Q.** And at the time you filed your direct

16 testimony and your rebuttal testimony, by whom were

17 you employed?

18 **A.** I was employed by Navigat (phonetic)

19 Consulting.

20 **Q.** Mr. Amen, do you have any additions or

21 corrections to your filed testimony?

22 **A.** Yes, I do.

1 **Q.** What would those be, please?

2 **A.** There were some typographical errors that
3 are essentially the same typo repeated several
4 times throughout my exhibits.

5 JUDGE MORAN: Is that your direct?

6 THE WITNESS: That was in my direct testimony --
7 or the exhibits accompanying my direct testimony,
8 actually.

9 JUDGE MORAN: You need to identify those,
10 please.

11 THE WITNESS: First of all, in Exhibit RJA 1.2,
12 Page 3 of 3, Line 19.

13 BY MR. HOUSE:

14 **Q.** And what is your correction, Mr. Amen?

15 **A.** The correction that I will mention is the
16 same in each case and that is on Line 19 in the
17 first Column A, it's labeled MCF and it should be
18 therms. The same typographical error because it's
19 included in other exhibits that are the same
20 schedule or a different version of the same
21 schedule is repeated and so the following occasions
22 are there as well.

1 First in RJA 1.7, Page 4 of 4, Line 19.

2 JUDGE MORAN: RJA...?

3 THE WITNESS: 1.7.

4 JUDGE MORAN: 1.7.

5 THE WITNESS: Page 4 of 4, Line 19.

6 JUDGE MORAN: And the error being...?

7 THE WITNESS: The same error, it should be

8 "therms" instead of "MCF." RJA 1.9, Page 4 of 4,

9 Line 19, the MCF should be therms.

10 JUDGE MORAN: Does it seem that in any of these

11 exhibits where MCF is, it should be therms or there

12 are exceptions?

13 THE WITNESS: No exceptions.

14 JUDGE MORAN: Okay. So across the board?

15 THE WITNESS: Yes.

16 JUDGE MORAN: Everybody got that?

17 THE WITNESS: The next occasion is in RJA 1.10,

18 Page 4 to 4, Line 19. Then in North Shore's

19 exhibits, the same typographical errors are

20 consistently present in RJA 1.2, Page 3 of 3, Line

21 19; RJA 1.7, Page 4 of 4, Line 19; RJA 1.9, Page 4

22 of 4, Line 19; and RJA 1.10, Page 4 of 4, Line 19.

1 BY MR. HOUSE:

2 Q. Does that conclude your corrections,
3 Mr. Amen?

4 A. Yes.

5 Q. Now, Mr. Amen, if I were to ask you the
6 same questions that are contained in your file,
7 direct, rebuttal and surrebuttal testimony, would
8 your answers be the same?

9 A. Yes.

10 MR. HOUSE: Your Honor, with the noted
11 corrections, I'd like to move that the following
12 exhibits of Mr. Amen be admitted into the record.
13 Those would be North Shore Exhibit RJA 1.0 and 1.1
14 through 1.10 as well as 1.11 revised; North
15 Shore-Peoples Gas Light Exhibit 1.0 and 1.1 through
16 1.10 as well as 1.11 revised. Those are Mr. Amen's
17 direct testimony, rebuttal testimony. North
18 Shore-PGL Exhibits RJA 2.0 as well as RJA 2.1
19 through 4 and Mr. Amen's rebuttal -- surrebuttal
20 testimony denominated North Shore Gas, Peoples Gas
21 RJA 3.0.

22 JUDGE MORAN: Okay. And on that rebuttal, that

1 was 2.1 through 2.4?

2 MR. HOUSE: That's right.

3 JUDGE MORAN: And are there any objections to
4 any of the testimony as it is corrected today, any
5 of these exhibits?

6 Hearing none, they will be admitted
7 subject to cross.

8 (Whereupon, NS Exhibit RJA No. 1.0 and 1.1 through
9 1.10 as well as 1.11 revised; NS-PGL Exhibit RJA
10 No. 1.0 and 1.1 through 1.11 revised; NS-PGL
11 Exhibit RJA No. 2.0 and 2.1 through 2.4; NS-PGL
12 Exhibit RJA No. 3.0 were admitted into evidence.)

13 JUDGE MORAN: And who wishes to begin
14 cross-examination?

15 MR. POWELL: I'll go first. I'm with the City.

16 CROSS-EXAMINATION

17 BY

18 MR. POWELL:

19 Q. Good afternoon, Mr. Amen.

20 A. Good afternoon.

21 Q. My name is Mark Powell, I'm representing
22 the City of Chicago in this matter.

1 Your testimony in this case concerns the
2 cost of service; is that correct?

3 **A.** That's correct.

4 **Q.** And your recommendations are designed to
5 ensure that cost of service are allocated to the
6 cost causers; is that correct?

7 **A.** Yes, that's correct.

8 **Q.** So your recommendations are not designed to
9 achieve rate design objectives?

10 **A.** No.

11 **Q.** So your allocation of cost is not then
12 designed to avoid rate shout?

13 **A.** No.

14 **Q.** And similarly they're not aimed at ensuring
15 gradualism?

16 **A.** No.

17 **Q.** Also you're not aimed at ensuring
18 continuity?

19 **A.** No.

20 **Q.** Now, throughout your testimony you use the
21 terms "mains" and "services."

22 Would you please explain the proper

1 terms for the pipe components.

2 **A.** Well, when I'm referring to "mains," I'm
3 speaking of distribution mains. Those are the
4 pipes that form the distribution grid of the
5 utility system. Connecting to those distribution
6 mains would be the services or service lines that
7 extend from the main to the customer premises.

8 **Q.** My questions relate to your surrebuttal
9 testimony. So starting with that testimony
10 beginning on Page 2 you discuss the staff and CUB,
11 City recommendations to allocate using the
12 averaging peak method rather than the company's
13 recommended custom peak methodology.

14 Do I have that right?

15 **A.** Yes.

16 **Q.** And on Page 3 of your surrebuttal
17 testimony, Lines 55 through 59 you state that,
18 quote, The two costs factors that influence the
19 distribution -- installed by utility, expend gas
20 distribution system are the sum of the peak period
21 gas placing by its customers and the distance
22 related construction costs involved in the

1 distribution system grid to connect new customers
2 consistent, closed quote.

3 Did I read that correctly?

4 **A.** Yes.

5 **Q.** Now, are you assuming here that the
6 companies must always bill new mains to serve new
7 customers?

8 **A.** No. There are occasions where there are
9 customers that are new customers that can attach to
10 the distribution system with only a service line
11 because they happen to reside in an area where a
12 main is already present within reach of a service
13 line.

14 **Q.** So you would agree that the companies do
15 not always have to install additional mains to
16 serve new customers?

17 **A.** No. As a matter of fact, in my direct
18 testimony, I talk about that very thing and I talk
19 about the fact that the system as a whole is
20 dynamic and, therefore, customers can be added by
21 merely extending a new service line to the grid or
22 there are occasions where one has to extend the

1 main sum distance in order to reach either a single
2 customer or group of customers.

3 **Q.** Did you take into account in your cost of
4 service study the fact you just indicated that not
5 every Peoples Gas customer requires new
6 construction of mains?

7 **A.** I think that's -- as I just mentioned,
8 because of the dynamic nature of the distribution
9 system, that's taking into account in the way that
10 the study is constructed, yes.

11 **Q.** Okay. Turning to your surrebuttal
12 testimony, Pages 9 to 10 beginning at Line 199
13 through 203, you state that, quote, The cost of the
14 service plan underlying the direct assignment to
15 the heating and nonheating S.C. No. 1 classes
16 properly reflects the design considerations of the
17 services, which require larger services to be
18 installed where multiple customers are connected to
19 a single service with cumulative living larger peak
20 closes as well as the length of those services,
21 closed quote.

22 Did I read that correctly?

1 **A.** Yes.

2 **Q.** Can you please explain the system design or
3 operations basis for your statement that multiple
4 customers require larger services?

5 **A.** Well, depending on the number of multiple
6 customers that are attached to a single service and
7 the nature of their connected load represented by
8 the requirements of the appliances that they use
9 could require a larger capacity service line that
10 would be otherwise needed for, say, a single
11 customer.

12 **Q.** So would you agree that that's not always
13 the case for multiple customers on a single pipe --
14 sharing a single service line, that they require a
15 larger service? It depends on the load?

16 **A.** Yes, it does. And, again, the number of
17 customers as well since presumably the larger the
18 number of customers connected to that single
19 service, the larger the load would be. There are
20 occasions and it's a relatively prevalent practice
21 where a single service will serve two customers
22 only. These are often referred to as twin services

1 where for economic reasons a distribution company
2 will extend the service line up a property line and
3 serve two single-family dwellings.

4 Oftentimes in those cases, the service
5 line has enough capacity, generally speaking, that
6 it doesn't require a larger service than it
7 otherwise would to service a single customer
8 depending on the pressure system that that
9 particular service is located on.

10 **Q.** To your knowledge, does the utility have a
11 separate rate or tariff for each separate service
12 pipe on its system?

13 **A.** No.

14 **Q.** Did you do a study to determine what
15 percentage of multiple customers sharing a single
16 service do not require a larger service line?

17 **A.** Well, actually, the company's cost of
18 service study takes that into account because, as I
19 mentioned in my testimony -- I believe I emphasized
20 it in my rebuttal testimony -- that the company's
21 records have allowed it to identify the services
22 connected to each customer, whether it be single

1 customer or multiple customers. Those services are
2 identified by their size, their type and their
3 length.

4 Therefore, I think the answer to your
5 question is, yes, because it's inherent in the
6 study that was done by the company.

7 **Q.** Did you attempt to allocate the utility's
8 cost of service -- the Peoples Gas cost of service
9 using the cost distinctions between single-family
10 and multifamily customers?

11 **A.** No, I did not.

12 **Q.** So you only allocated the cost and E cost
13 for residential that is between heating and
14 nonheating customers; is that correct?

15 **A.** Well, if your question relates to
16 establishing a separate class for -- excuse me --
17 for a single family or multifamily class, clearly
18 the study did not distinguish the classes in that
19 regard. It distinguished them between heating and
20 nonheating residential customers; but the cost to
21 serve either single-family dwellings, single
22 premises served off of a single service or multiple

1 premises served off of a single service are
2 inherent that the study that the company did
3 perform in that the cost to serve those different
4 types of customers, residential customers, was
5 identified.

6 Q. I'd like to turn your surrebuttal testimony
7 beginning on Page 11 where you discuss Mr. Kahle's
8 proposal to FERC, to the individual customers
9 generating those costs?

10 JUDGE MORAN: Excuse me. Are you on Page 11,
11 you said?

12 MR. POWELL: Yes, I'm sorry Page 11 of --

13 JUDGE MORAN: Rebuttal.

14 MR. POWELL: -- surrebuttal.

15 JUDGE MORAN: Okay. I'm sorry.

16 THE WITNESS: I'm there.

17 BY MR. POWELL:

18 Q. On Page 10, Lines 210 through 212 you state
19 that it would be, quote, both impractical in a
20 single account such as Account 385 which are
21 attributable to the customers and simply because
22 those costs could be attributing to, closed quote.

1 Did I read that correctly?

2 **A.** Yes.

3 **Q.** Do you agree that to the extent practical

4 costs should be the responsibility of the cost

5 causers?

6 **A.** Yes.

7 **Q.** So where direct assignments could be made,

8 that is preferable to allocations based on

9 secondary factors?

10 **A.** Yes. In fact, in the case you point out,

11 direct assignment was used.

12 **Q.** You're referring to the service lines?

13 **A.** No, I'm referring to Account 385. It was

14 directly assigned to the classes based on where

15 those customers resided.

16 **Q.** But not to the customer specifically, to a

17 class as opposed to a specific customer?

18 **A.** Well, there's not a single customer class

19 in either case. The multiple customers in each

20 class, but the costs were assigned to the class in

21 which that customer resided.

22 **Q.** Would you agree with me that

1 customer-specific facilities like Account 385 can
2 be associated with customer specific --

3 **A.** Yes, and they have.

4 **Q.** And that the costs -- would you agree also
5 that the costs in Account 385 -- strike that.

6 Would you agree that the number of
7 customers who cause the customer-specific costs in
8 Account 385 is small as opposed to the Service
9 Classification No. 2?

10 **A.** Well, there are some of those customers in
11 Service Classification No. 2 that received an
12 assignment of the Account 385 cost; but in terms of
13 the number of customers with facilities in Account
14 385, I would agree that it's probably smaller than
15 in the mass account of, say, 381 that contains
16 meters.

17 **Q.** So given that, would you agree that it
18 would be not be impractical for the companies to
19 directly assign the cost to the specific individual
20 customers who cause them?

21 **A.** Within the context of the cost of service
22 study that is being done.

1 **Q.** You're saying that in the sense that it's
2 directly assigned to the customer class?

3 **A.** Yes.

4 **Q.** Okay. On Page 11, you state that removing
5 the facilities costs in Account 385 related to the
6 electric power plant customer in S.C. 2 by
7 Mr. Glahn would have a, quote, negligible impact on
8 the S.C. Customer 2 charges, closed quote.

9 Did I read that correctly?

10 **A.** Yes.

11 **Q.** Earlier you agreed that for cost of
12 services purposes customer-specific costs should be
13 assigned to customer costs in those costs; is that
14 correct?

15 **A.** Yes.

16 **Q.** Does the resulting impact of direct
17 assignment on other customer costs determine
18 whether that approach should be followed?

19 **A.** Well, I think in this case, what I was
20 speaking about is the practicality of taking a
21 single customer out of a class, a class in which
22 that particular customer qualifies as all the other

1 customers do and treating them separately. And I
2 don't think that's appropriate in this case.

3 I think it creates, as I stated in my
4 surrebuttal testimony, questions of fairness and
5 equity among the customers within that class.

6 **Q.** I guess my question is, you state it's --
7 at Line 242 that in specific case of the power
8 plant, removing those costs would have an impact on
9 the other customers in customer class -- negligible
10 impact on the S.C. 2 customer charges?

11 **A.** In fact, I quantified that on the following
12 page.

13 **Q.** And my question is, does the resulting
14 impact of directly assigning costs to specific
15 customers determine whether that approach, i.e.,
16 direct assignment, should be followed?

17 **A.** Well, I was responding to Witness Glahn's
18 testimony with regard to cross subsidization among
19 customers within a class. And I believe he was
20 suggesting that small customers were providing some
21 kind of intraclass subsidy based on the inclusion
22 of the facilities of this one particular customer

1 in that class. And I was merely providing as an
2 example that if you were to remove those
3 facilities, while they may seem large in amount for
4 that particular customer, it has a very negligible
5 impact on a greater class.

6 So that rather than there being any
7 cross-subsidization going on where the small
8 customers are subsidizing, the reverse is probably
9 more accurate. And that is because, while the
10 customer charge that this customer would pay in
11 Service Class No. 2 doesn't recover, perhaps, all
12 of the facilities costs related to his facilities,
13 the fact that the rate schedule is largely
14 volumetric and because of the size of this
15 customer, the subsidy is probably actually going in
16 the other direction.

17 So I was merely speaking about the
18 presence or not of intraclass subsidies as it was
19 addressed in Mr. Glahn's testimony.

20 **Q.** So the answer to my question is, no, the
21 resulting impact of any cost another customer --

22 **A.** No, I don't think it's "no" necessarily. I

1 think that this goes to that, the concept of
2 intraclass subsidization and how much is actually
3 occurring whether or not those facilities are
4 included or not included.

5 Where do you draw the line? Where do
6 you say that we'll pull out the metering facilities
7 for this customer and that customer and the other
8 when, in fact, they're part of an entire class?
9 It's not a single customer class.

10 I think a more appropriate and doable
11 approach is one that the company has chosen and
12 that is to create service charges that are
13 differentiated by meter size so that smaller
14 customers can pay a service charge that's more
15 appropriate for the facilities, and the larger
16 customers in that class can pay the service charge
17 that's more appropriate for their facilities.

18 MR. POWELL: Can I have a minute?

19 JUDGE MORAN: Sure.

20 MR. POWELL: Thanks.

21 (Whereupon, a discussion was had off the record.)

22 MR. POWELL: Just a couple more questions, if I

1 may.

2 JUDGE MORAN: Sure.

3 BY MR. POWELL:

4 Q. Going back to your answers about whether
5 the companies have to always install new mains to
6 serve new customers, did you take into
7 consideration movings of customers, previous
8 customers, where service is already established and
9 a new customer moves in and no new construction is
10 required?

11 A. Well, in the short-run, of course, that
12 occurs quite frequently and customers move in and
13 out and use the same facilities that were there for
14 the previous tenant. If the particular service
15 goes vacant or unused for a certain period of time,
16 the regulations require that that service line be
17 retired.

18 And, in that case, if there's been a
19 certain amount of time passed, there would have to
20 be a new service added; but the study is, of
21 course, a snapshot of, again, this dynamic
22 distribution system. And, therefore, there are

1 occasions that represent each of the situations
2 that you described.

3 Q. Would you agree that the extent of that or
4 how dynamic the system is might depend on whether
5 we're talking about an urban or suburban service
6 territory?

7 A. Certainly.

8 Q. And how -- can you tell me how that's taken
9 into account in the company's E cost?

10 A. I think the investment as it grows from
11 year to year inherently reflects those conditions.
12 There will be conditions where new mains are added
13 to service customers. There will be occasions when
14 new services are added to existed mains to service
15 new customers. There will be occasions when a
16 customer moves in and occupies a dwelling that is
17 already served by a service line and neither a main
18 nor a new service will need to be added.

19 So it's inherent in the capital cost,
20 the investment cost at distribution system that is
21 the subject of the cost.

22 Q. Is the relative frequency of installing new

1 mains versus surveying previous customer premises
2 taken into account --

3 **A.** Yes.

4 MR. POWELL: Nothing further. Thank you.

5 JUDGE MORAN: Thank you.

6 And Ms. Lusson?

7 CROSS-EXAMINATION

8 BY

9 MS. LUSSON:

10 **Q.** Good afternoon.

11 At Page 8 of your surrebuttal testimony
12 beginning at Line 165 you state, The primary
13 purpose for dividing S.C. No. 1 customers into
14 heating and nonheating is to appropriately
15 recognize their respective load characteristics,
16 which drive cost responsibility for the single
17 largest component of distribution plant that is the
18 cost of mains.

19 Is that your testimony?

20 **A.** Yes, that's correct.

21 **Q.** Is it correct then that customer usage of
22 natural gas or as you've referred to it as load

1 characteristics drives customer costs?

2 **A.** I'm sorry. The ringing is disturbing me.

3 **Q.** And I'm sorry. It's coming from my purse.

4 I hope it stops soon.

5 **A.** Being disturbed, I meant distracted.

6 MS. LUSSON: I apologize, your Honor.

7 JUDGE MORAN: It's no worse than the protests.

8 THE WITNESS: I'm sorry. Could you repeat the

9 question?

10 BY MS. LUSSON:

11 **Q.** Is it correct then that customer usage of

12 natural gas or as you refer to it as load

13 characteristics drives company costs?

14 **A.** Yes, in particular, there are peak load

15 requirements.

16 **Q.** Is it also correct then that customers with

17 smaller load characteristics generate fewer or less

18 costs?

19 **A.** Customers who provide a lower peak demand

20 or smaller peak demand provide then lower capital

21 costs related to that demand.

22 **Q.** Is it correct then that costs incurred by

1 the company to provide delivery service change when
2 customer usage declines over the long run?

3 **A.** Well, no, not necessarily in the context of
4 the costs that we're talking about here, that is,
5 capacity-related costs. Once those investments are
6 made, if a particular customer's load declines,
7 those fixed costs remain the same.

8 **Q.** And for purposes of your E cost, did you
9 make any assumptions about load characteristics in
10 developing your -- in patterns in load
11 characteristics in developing your cost study?

12 **A.** Well, I have an exhibit that actually lays
13 out the load characteristics of the various
14 customer classes.

15 **Q.** So you did take that into account?

16 **A.** Yeah.

17 **Q.** And, now, in his testimony, Mr. Borgard
18 states, Today we see that -- he notes significant
19 changes in the demographics of the city since the
20 last rate case and he states that today we see the
21 number of residential heating customers as being
22 steady to growing slightly. Generally the housing

1 stock of the city is changing from centrally heated
2 larger buildings to individually heating housing.

3 Did you take that phenomenon into
4 account in preparing your E costs?

5 **A.** Well, as I think I mentioned earlier, those
6 characteristics were considered in that the
7 identification of facilities for customers
8 identifies the service line, meter type, type size
9 of meter and service and length of service. So
10 it's inherently considered in the cost of service
11 study because those characteristics -- that
12 information was then covered in the cost of service
13 study.

14 **Q.** And does the company have the ability to
15 alter the installs of individually heated housing
16 accounts versus multifamily accounts served by one
17 main or one service? Is that something that the
18 company looks at in making investment decisions?

19 **A.** I'm not sure I understand your question.
20 What would they be altering?

21 **Q.** Is there -- let me rephrase it.

22 Is there a business plan or an

1 assumption by the company that the -- as
2 investments are made, the movement should be toward
3 individually heated housing as opposed to
4 multifamily installations that require one larger
5 main or larger service as compared to individually
6 heated housing accounts?

7 **A.** Well, I think what the company naturally
8 would do would be to respond to the needs of the
9 community and the preferences of customers and
10 those builders and developers who build homes and
11 apartment complexes and condominiums and so forth
12 to serve them. Therefore, I think that the company
13 would be interested in providing facilities that
14 would accommodate those needs.

15 **Q.** And those decisions about altering the --
16 modifying from services that are serving an entire
17 building versus an individually metered unit, are
18 those decisions entirely within the customer's view
19 or does the company have any sort of say in that
20 regard?

21 **A.** Well --

22 **MR. HOUSE:** Your Honor, I'm not sure what this

1 has to do with Mr. Amen's cost of service study or
2 how -- if you could tie it back to that, I think
3 that might be more manageable, but it seems like
4 you're getting into company practices and
5 record-keeping that might be beyond what he
6 testified to.

7 MS. LUSSON: Well, let me rephrase it.

8 JUDGE MORAN: I understand work for the company.
9 So...

10 BY MS. LUSSON:

11 Q. For purposes of your cost of service study,
12 were you given any assumptions about the movement
13 towards centrally heated larger -- or individually
14 heated housing -- individual accounts versus
15 multifamily one account buildings?

16 A. No.

17 Q. You were not?

18 A. No.

19 Q. Does the low characteristic dictate whether
20 high, medium or low pressure systems can be used
21 or, in fact, whether or not mains need to be
22 replaced?

1 **A.** Well, certainly, the demand on the system
2 has an impact on the load requirements, which are a
3 combination of the capacity or size of the
4 particular facilities as well as the pressure under
5 which the gas stream is provided. There is, you
6 know, a long-standing movement technology-wise in
7 the industry from low-pressure systems to medium to
8 higher pressure distribution systems. They tend to
9 be more reliable, certainly meeting the peak
10 demands of customers on the system.

11 **Q.** And you indicated earlier, I think, that
12 main -- or distribution plan investment can be
13 effected by peak -- the need for peak delivery?

14 **A.** Yes, that's the primary cost deterrent.

15 **Q.** Okay. And is it correct then that if peak
16 delivery is reduced, does that have any effect on
17 your cost of service study?

18 **A.** The way that the peak demand has been
19 determined in the company's cost of service study
20 is on a design day basis, that is, under the design
21 weather conditions that the company uses to design
22 and build its distribution system. Therefore, it

1 is a very stable methodology for allocating costs
2 as opposed to, say, using a coincident peak from a
3 particular year or a group of peaks from a
4 particular year, a group of years that could
5 fluctuate as the demand changes from time to time.

6 So I believe that the methodology that
7 was employed creates stability from state to state.

8 MS. LUSSON: Okay. No further questions.

9 JUDGE MORAN: Okay. Staff, Mr. Fosco?

10 CROSS-EXAMINATION

11 BY

12 MR. FOSCO:

13 Q. Good afternoon, Mr. Amen. My name is
14 Carmen Fosco. I'm one of the attorneys
15 representing staff.

16 If I understand your testimony
17 correctly, there's three basic steps to performing
18 the imbedded cost of service study and those are
19 the functionalization, classification and
20 allocation of total operation costs; is that
21 correct?

22 A. That's correct.

1 **Q.** And then if I understand the
2 functionalization step, that basically identifies
3 and separates plan costs and expenses into specific
4 categories such as production, storage,
5 transmission, distribution and customer accounts
6 and sales, correct?

7 **A.** That's true, yes.

8 **Q.** Okay. And then the cost classification
9 further separates those functionalized costs into
10 three categories, namely customer cost demand or
11 capacity costs and commodity costs; is that
12 correct?

13 **A.** Yes.

14 **Q.** And you testified that customer costs or
15 costs that are incurred to extend service to and
16 attach a customer to the distribution system
17 metering and gas usage and maintain the customer's
18 account?

19 **A.** Are you referring to a specific spot in my
20 testimony?

21 **Q.** Sure. You could refer to Page 11 of your
22 direct testimony in both North Shore and Peoples.

1 From the Peoples exhibit, it may be the same line
2 and for North Shore your answer starts at Line 230.

3 A. Yeah, I think in my copy it's 232, but
4 after the question "please explain"?

5 Q. Correct.

6 A. Okay. Yes, I see that.

7 Q. Okay. And you further state -- in my copy
8 it's at Lines 231 to 233 that customer costs are
9 largely a function of the number and density of
10 customers served and continue to be incurred
11 whether or not the customer uses any gas; is that
12 correct?

13 A. Yes.

14 Q. So general customer costs represent fixed
15 costs?

16 A. Yes.

17 Q. Okay. If we can now turn to the subject of
18 uncollectible accounts, could you give me your
19 basic understanding of how an uncollectible account
20 arises?

21 A. I'm sorry?

22 Q. How does an uncollectible account arise,

1 from your understanding?

2 **A.** When the customers don't pay their bills.

3 **Q.** Okay. And would you agree that when a
4 customer doesn't pay its bill for whatever reason,
5 it doesn't identify a specific portion that it's
6 not paying?

7 **A.** That's correct. It is an additional
8 expense in and of itself caused by the fact that
9 the customer has failed to pay the bill.

10 **Q.** Okay. And would you agree that everything
11 else equal, if you have two customers, one has a
12 monthly bill of a hundred dollars and another has a
13 monthly bill of two hundred dollars and they both
14 fail to pay you their bills, the customer that had
15 a larger bill has the larger uncollectible account,
16 correct?

17 **A.** Yes.

18 **Q.** So the amount of uncollectible costs, would
19 you agree, tend to vary with the amount of the
20 underlying bills?

21 **A.** Yes.

22 **Q.** Referring to your surrebuttal testimony,

1 Page 7, I believe it's Lines 135, you assert that
2 unpaid bills are an additional expense; is that
3 correct?

4 **A.** Yes, reiterating what I just said.

5 **Q.** Would you agree that an uncollectible
6 account does not represent an additional
7 expenditure such as an additional expenditure for
8 additional employees, something of that nature?

9 **A.** The uncollectible bill itself does not
10 represent an additional expenditure, however, I'm
11 aware that the company pays to have those
12 uncollectible bills collected from time to time,
13 which would be an additional expenditure.

14 **Q.** Is it your position, Mr. Amen, that unpaid
15 North Shore or Peoples Gas bills that become
16 uncollectible consist of only a customer charge?

17 **A.** No.

18 **Q.** So you would agree that the unpaid bills,
19 the underlying bills consist of customer charges,
20 distribution charges and, if applicable, demand
21 charges?

22 **A.** Yes.

1 **Q.** Okay. I'm going to give you a hypothetical
2 here. Assume that a utility has no uncollectible
3 accounts built into its revenue department and
4 assume that the utility has rates that are designed
5 to recover a full amount of its revenue
6 requirement, which for purposes of this
7 hypothetical, let's assume that's one million
8 dollars, would you agree that in that hypothetical,
9 if the utility sent out billings totalling one
10 million dollars and all customers pay their bills,
11 the utility will recover one million dollars?

12 **A.** That seems to be the natural conclusion
13 from your hypothetical, yes.

14 **Q.** Okay. Okay. If we assume the same facts
15 with the following change, let's assume that five
16 percent of the customers in dollar amounts don't
17 pay their bills and then would you agree that the
18 utility in that situation will not recover one
19 million dollars based on sending out one million
20 dollars in bills?

21 **A.** Yes.

22 **Q.** Okay. And would you agree that in order

1 for the utility to recover one million dollars in
2 our second-stage hypothetical with the five percent
3 not paying, the utility will need to send -- or it
4 will need to have rates that increase its billings
5 to an amount above one million dollars?

6 **A.** I think a logical extension of your
7 hypothetical would be that in the next case where
8 their revenue requirement would be reestablished,
9 that if there were a level of uncollectible
10 expenses of, say, five percent of a million
11 dollars, that that would be an additional expense
12 that would have to be recovered.

13 **Q.** Basically, you would -- the company would
14 be expected in that situation to increase its rates
15 so that the amount that is unpaid isn't -- in fact,
16 when they do get the payment, less than five
17 percent equals one million dollars, that would be
18 the goal?

19 **A.** Actually, in that case it would be -- yeah,
20 it would total a million dollars because presumably
21 they're not collecting the full million.

22 **Q.** And I know the math doesn't work out this

1 way, but essentially they would bill a hundred and
2 five million to --

3 **A.** To get a million, yes.

4 **MR. FOSCO:** Can you give me just a minute, your
5 Honor?

6 **JUDGE MORAN:** Sure.

7 (Whereupon, a discussion was had off the record.)

8 **BY MR. FOSCO:**

9 **Q.** Okay. If we have a situation -- another
10 hypothetical -- where -- at a customer level you
11 have one customer that has \$19 and a customer
12 charge and \$15 in distribution charges for a total
13 of 34 and another customer who has the same \$19
14 customer charge but \$400 in distribution charges, I
15 think because of your earlier answers you would
16 agree that if both of those customers don't pay
17 their bills, the customer with the \$419 total bill
18 will add more collectibles expense than the
19 customer that has the \$19 and customer charge of
20 \$15?

21 **A.** Yes.

22 **Q.** And the difference between the two

1 customers in that hypothetical is the difference in
2 the unpaid distribution charges; would you agree
3 with that?

4 **A.** Well, it's the difference in their total
5 bill, however it's made up.

6 **Q.** And in the hypothetical it was based upon
7 the difference in distribution charges?

8 **A.** It's a function of the rates being
9 volumetric and one customer being larger than the
10 other, yes.

11 MR. HOUSE: Your Honor, the problem I'm
12 beginning to have with this is it's beginning to
13 drift into rate design rather than the effect of
14 uncollectibles and the cost of service study.

15 JUDGE MORAN: I will permit it. I understand,
16 but let's -- how much --

17 MR. FOSCO: Just about two more questions.

18 JUDGE MORAN: Okay. That's it. Thank you.

19 BY MR. FOSCO:

20 **Q.** Are North Shore or Peoples Gas revenues
21 higher, lower or the same when a customer does not
22 pay a bill for only \$34 compared to a separate

1 situation where a customer does not pay a bill for
2 \$419?

3 **A.** In neither case they're collecting less
4 revenue.

5 **Q.** And they're not the same loss --

6 **A.** The amount of the collectible expense is
7 higher with the customer with the higher bill.

8 **Q.** Okay. And under your proposal for handling
9 and billing uncollectible accounts for the entire
10 amount for uncollectible amounts is considered a
11 customer cost to be billed through the customer
12 charge, would you agree that the \$34 dollar
13 customer would be the same as the \$419 customer
14 because both were paid the same customer charge?

15 **A.** My testimony doesn't address billing
16 uncollectible expenses or any kind of inclusion of
17 them in rate design. My testimony goes to the
18 treatment of those uncollectible expenses within
19 the cost of service study; which, as I stated in my
20 testimony, it's a customer-related cost because
21 it's an expense incurred because customers fail to
22 pay their bills.

1 My problem with Mr. Luth's approach is
2 he's using the same rate design characteristics
3 that your hypotheticals deal with and trying to
4 translate that into cost causation.

5 **Q.** So I understand your testimony to be then
6 that it's not your testimony that Mr. Luth's
7 proposal is not improper, but that it's improper of
8 a cost of service study?

9 **A.** That would be correct.

10 MR. FOSCO: I have no further questions, your
11 Honor.

12 JUDGE MORAN: Okay. Is there anyone -- I
13 believe --

14 MR. FOSCO: Thank you very much.

15 THE WITNESS: Thank you.

16 JUDGE MORAN: Is Mr. Robertson here?

17 MR. RATNASWAMY: Your Honor, Mr. Robertson
18 advised me that if he did not return, that that
19 should be considered a waiver of cross.

20 JUDGE MORAN: Okay. Thank you. I have a few
21 questions.

22

1 EXAMINATION

2 BY

3 JUDGE MORAN:

4 Q. You and Mr. Luth have a dispute over this
5 average peak and coincidental peak methodology?

6 A. Yes.

7 Q. And it seems to carry on into your
8 surrebuttal. And if you turn to Page 3, the last
9 question that has put you in that response that
10 talks a little bit about why you don't like the A&P
11 methodology because it incorporates something
12 called noncost factors.

13 Before I put a question to you on that,
14 can you explain for me -- and I know it's in your
15 testimony, but I just like hearing it fresh -- the
16 difference between the coincident peak method and
17 the A&P methodology.

18 A. Well, the coincident peak methodology is
19 grounded on the concept that the collective peak
20 demands of the customers on the system are the
21 drivers of investment cost, capacity cost in the
22 distribution system, the cost of building,

1 constructing, the distribution system.

2 The average end peak methodology
3 recognizes as one element those peak requirements
4 in determining the peak capacity in the system;
5 but, in my opinion, it incorporates noncost factors
6 related to the utilization of the system off peak.

7 And, in fact, the three characteristics
8 I believe that Mr. Luth mentioned, one being the
9 need to increase capacity to serve the peak
10 requirements, the other to -- I believe, related to
11 utilization of a system off peak and the benefits
12 derived by customers from that use.

13 And --

14 **Q.** That's really what I'm trying to get at.

15 What is meant by that "benefits to
16 customers"?

17 **A.** Well, the fact that the customers are using
18 the system year-round, that's perceived to be a
19 benefit. And my opinion is that those customers
20 that benefit from the system should pay for it on a
21 year-round basis, which they do; but to the extent
22 that capacity is available to them to use is

1 essentially because the customers who have caused
2 that capacity to be built have released it to the
3 remainder of the system and they don't need it and
4 that is on the peak day.

5 Q. Okay. That average in peak takes account
6 of the coincidental peak or the highest usage?

7 A. It does.

8 Q. But then does a weighting or something, an
9 averaging of all the other factors?

10 A. Yes, in that the way it's been applied if
11 you're in Illinois, in this case and in others, is
12 it's -- the two components are weighted by the load
13 factor of the system; that is, the relationship of
14 the average use of the system to the peak use and a
15 load factor is calculated from that.

16 The average use component of that load
17 factor is then allocated to the classes based on a
18 throughput and the remaining peak component is
19 allocated to the classes based on peak day demand.

20 Q. And continue with an explanation for that
21 last sentence, you said, As I stated in my rebuttal
22 testimony, a reasonable conclusion -- a reasonable

1 conclusion only requires the customers that benefit
2 from the use of the system throughout the year
3 should pay for it throughout the year?

4 **A.** I was responding there --

5 **Q.** Okay.

6 **A.** Yeah, I was responding there to Mr. Luth's
7 rebuttal testimony. I think it was his rebuttal
8 testimony where he claimed that because you use the
9 coincident peak methodology for allocating costs to
10 the classes that, therefore, that would somehow
11 translate into customers only paying for their use
12 of the system on one day a year.

13 **Q.** That's what I didn't understand.

14 **A.** Yeah.

15 **Q.** And I do recall that --

16 **A.** Cost characteristics to rate design, which
17 is inappropriate.

18 **Q.** Okay. I will -- I will continue this
19 discussion with Mr. Luth. Thank you.

20 **A.** Thank you.

21 JUDGE MORAN: Is there any redirect?

22 MR. HOUSE: I would consult, please.

1 JUDGE MORAN: Sure.

2 While they're consulting, let's take a
3 five minute break so that the court reporter can
4 rest and so that we can all clear our heads a
5 little.

6 (Off the record.)

7 JUDGE MORAN: Any redirect?

8 MR. HOUSE: Your Honor, I have no redirect.

9 JUDGE MORAN: Very good. The witness is
10 excused. Thank you very much for coming in.

11 Okay. We have two more witnesses and I
12 think I'm going to try to get them both in today
13 because the rest of the days are just ridiculous.

14 Everybody that's here, think about some
15 suggestions on how to get through this -- these
16 schedules and these times. I'm going to propose to
17 Judge Gilbert that we start at 9:00. What does
18 anybody think of that? I mean, I can't see nine
19 hours and starting at 10:00.

20 MS. LUSSON: Are you asking if we want to start
21 at 9:00?

22 JUDGE MORAN: I'm asking you guys to start

1 thinking now. So when we finish Mr. Borgard, then
2 we can discuss how we're going to work through this
3 schedule during the whole week because I'm seeing
4 nine -- nine and a half -- I mean, are we
5 interested in staying late because, I mean, if you
6 start at 10:00, you're going to be leaving here at
7 7:00 and that's not even counting a lunch break.
8 So think about this while we continue today's
9 witnesses.

10 And I apologize, Mr. Borgard. Counsel,
11 you can proceed.

12 I have sworn you in?

13 THE WITNESS: Yes.

14 MR. RATNASWAMY: North Shore Gas Company and
15 Peoples Gas Light & Coke Company call Mr. Borgard.

16 LAWRENCE T. BORGARD,
17 called as a witness herein, having been first duly
18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY

21 MR. RATNASWAMY:

22 Q. Mr. Borgard, will you please state your

1 name.

2 **A.** Yes. My name is Lawrence T. Borgard,
3 B-o-r-g-a-r-d.

4 **Q.** And what positions do you hold with Peoples
5 Gas and North Shore?

6 **A.** I'm the vice chairman and chief executive
7 officer of both.

8 **Q.** What is your business address, please.

9 **A.** 130 East Randolph Drive, Chicago, Illinois
10 60661.

11 **Q.** And did you prepare under your direction
12 and supervision direct rebuttal and surrebuttal
13 testimony on behalf of Peoples Gas and North Shore
14 in this case?

15 **A.** Yes.

16 **Q.** And with regard to your prefiled direct
17 testimony, is it the case that in the course of
18 reviewing it, you've identified two corrections you
19 wish to make before we proceed further?

20 **A.** That's correct.

21 **Q.** And -- is it -- I think I'll just lead if
22 someone objects.

1 In your Peoples Gas direct testimony on
2 Line 589 and, similarly, in your North Shore Gas
3 testimony direct on Line 546, is it correct that
4 the words "base rate" should be "gas cost"?

5 **A.** That's correct.

6 JUDGE MORAN: What line is that? I'm sorry.

7 MR. RATNASWAMY: In Peoples it's Line 589 and in
8 North Shore it's Line 546.

9 JUDGE MORAN: And the word "base rate" should be
10 stricken?

11 MR. RATNASWAMY: Yes, and replaced by the words
12 "gas cost."

13 BY MR. RATNASWAMY:

14 **Q.** And then with regard to your Peoples Gas
15 Exhibit LTB 1.1, Page 2 of 2, where the left part
16 of the chart is indicated to be dollars per MMTBU,
17 is it correct that the decimal point in the figures
18 on the left side of the chart should be moved over
19 one?

20 **A.** Yes, one to the right.

21 **Q.** Do you have any other directions -- I'm
22 sorry.

1 And the North Shore equivalent exhibit,
2 which is North Shore Exhibit dash 1.1 also to be --

3 **A.** That's correct, the same correction.

4 **Q.** With that being said, with regard to your
5 Peoples direct, Exhibit LTB 1.0 and Attachments 1.1
6 through 1.6 and your North Shore direct, which is
7 Exhibit LTB 1.0 and Attachments 1.1 through 1.5, if
8 I asked you the questions that appeared in your
9 direct testimony subject to the two corrections
10 you've just made, would you give those same answers
11 today?

12 **A.** Yes.

13 **Q.** And are those answers true and correct?

14 **A.** Yes.

15 **Q.** All right. With regard to your rebuttal
16 testimony, North Shore and Peoples Gas Exhibit LTB
17 dash 2.0, is it correct that if I ask you the
18 questions that appear in that testimony that you
19 would give the answers that appear there?

20 **A.** Yes.

21 **Q.** And are those answers true and correct?

22 **A.** Yes.

1 **Q.** Finally, with regard to your North Shore
2 and Peoples Gas surrebuttal Exhibit LTB dash 3.0,
3 if I asked you the questions that appeared there,
4 would you give the answers that appear there?

5 **A.** Yes.

6 **Q.** All right. Are those answers true and
7 correct?

8 **A.** Yes.

9 MR. RATNASWAMY: Your Honors, I would then move
10 the exhibit -- move the admission into evidence of
11 Peoples Gas Exhibits LTB 1.0 through 1.6, North
12 Shore Exhibits LTB 1.0 through 1.5, North Shore and
13 Peoples Exhibit LTB dash 2.0 and North Shore and
14 Peoples LTB 3.0.

15 JUDGE MORAN: Are there any objections?

16 Hearing none, those are admitted and the
17 witness is tendered for cross.

18

19

20 (Whereupon, PGL Exhibit LTB No. 1.0 through 1.6, NS
21 Exhibit LTB 1.0 through 1.5, NS-PGL Exhibit
22 LTB-2.0, and NS-PGL Exhibit LTB No. 3.0 were

1 admitted into evidence.)

2 JUDGE MORAN: Who wishes to start?

3 CROSS-EXAMINATION

4 BY

5 MR. STRAUSS:

6 Q. Good afternoon, Mr. Borgard.

7 A. Good afternoon.

8 Q. I'm Scott Strauss and I'm going to ask you
9 some questions today.

10 Would you turn to your direct -- Peoples
11 direct testimony Exhibit LTB dash 1.0 at Page 3
12 focusing on your answer that begins at the bottom
13 of the page on Page 66 and continues over to Line
14 75, would it be correct, sir, what's describe in
15 this passage as your employment history?

16 A. Yes.

17 Q. And I believe what you're describing here
18 is a progression of up the corporate ladder to
19 positions of increasing responsibility; do I have
20 that right?

21 A. Yes.

22 Q. It's typical in Integris (phonetic), is it

1 not, that qualified executives as they gain
2 experience will move to more junior positions to
3 more senior positions with relative more
4 responsibility?

5 A. Yes.

6 Q. And, Mr. Borgard, there's nothing unique
7 with this treatment of Integris executives, that
8 seems standard to you?

9 A. Yes.

10 Q. If you could turn to your rebuttal, your
11 rebuttal presentation on Page 4 on Lines -- if you
12 look at Lines 67 and 68 you make the statement that
13 Peoples Gas shares a number of the general views
14 expressed by Witness Gennett.

15 Do you see that?

16 A. Yes.

17 Q. Then on Page 14 of the same testimony on
18 Lines 295 to 296 you make the same statement.

19 Do you see that?

20 A. Yes.

21 Q. Which of Mr. Gennett's general views do you
22 agree with?

1 **A.** I agree with Mr. Gennett in that it's
2 important that the company have a process in place
3 to place workers on an as-needed basis, qualified
4 workers.

5 **Q.** Do you share his view that as employee
6 vacancies and relative more senior positions arise,
7 they should be filled by more junior eligible
8 candidates from inside the company?

9 **A.** If warranted, yes.

10 **Q.** Do you share Mr. Gennett's concern that the
11 company is facing significant retirements of
12 employees in relatively higher skill positions over
13 the next ten years?

14 **A.** Yes.

15 **Q.** On Page 14 -- on Page 14 of the same
16 testimony at Line -- Line 303 you state, Management
17 appreciates the concerns expressed by Mr. Gennett.

18 Do you see that?

19 **A.** Yes.

20 **Q.** And which concerns did you have in mind?

21 **A.** The concerns similar to what we just
22 discussed about the replacement workers on an

1 as-needed basis.

2 Q. Okay. At Lines 304 and 305, you're talking
3 about the one-for-one approach and you stated it
4 would be followed -- this is at Line 305 -- it
5 would be followed in certain work groups at certain
6 times.

7 Do you see that?

8 A. Yes.

9 Q. What did you mean by "work group"?

10 A. Work group could be either a department or
11 a given shop location as an example or even a
12 department within a given shop location.

13 Q. And when you say, It would be followed in
14 certain work groups at certain times, which times
15 did you have in mind?

16 A. When it's needed.

17 Q. As needed; is that what you're saying?

18 A. That's correct.

19 Q. Following on at the end of Line 305 and
20 moving on to 306, you make a statement for the
21 Commission to impose such a policy on management.

22 Do you see that?

1 **A.** Yes.

2 **Q.** And by "policy," I assume you're referring
3 to the one-for-one proposal?

4 **A.** Yes.

5 **Q.** Going further on that line, you say that it
6 would be inappropriate to do so based only on the
7 general concerns that have been identified.

8 Do you see that language?

9 **A.** Yes.

10 **Q.** Did you mean to imply there that the union
11 had only raised general concerns in support of the
12 one-for-one proposal?

13 **A.** I think I meant to imply that they have
14 raised general concerns with respect to the
15 one-for-one proposal.

16 **Q.** You didn't mean to state that they hadn't
17 raised other specific concerns as well, did you?

18 **A.** No.

19 **Q.** Do you happen to have Mr. Gennett's direct
20 testimony?

21 **A.** I do not.

22 **MR. STRAUSS:** Can I approach, your Honor?

1 JUDGE MORAN: Sure.

2 BY MR. STRAUSS:

3 Q. If you could to turn Page 9 of
4 Mr. Gennett's direct testimony, I'm looking at
5 Lines 3 to 15. Your statements in your rebuttal
6 about general concerns and the basis for the
7 policy, you're responding to Mr. Gennett's direct
8 testimony, the testimony you have in front of you,
9 in making those statements; is that correct?

10 A. My rebuttal testimony responds to
11 Mr. Gennett's direct testimony, yes.

12 Q. Very well.

13 If you look at Lines 4 to 6 there on
14 Page 9, you see that Mr. Gennett relates certain
15 facts about the reduction in the size of the
16 company's union represented work force from 1996 to
17 2006?

18 A. Yes.

19 Q. And if you look down at Line 6 through 8,
20 do you see in this passage, he relates certain
21 facts about work force retirement eligibility over
22 the next ten years? Do you see that?

1 **A.** Yes.

2 **Q.** Do you see that he notes on Line 7 that 50
3 percent of the work force will be eligible to
4 retire within the next ten years?

5 **A.** Yes.

6 **Q.** You don't take issue with these figures, do
7 you, sir?

8 **A.** I have no reason to believe that they're
9 inaccurate.

10 **Q.** Okay. And just to point your attention
11 briefly a little further down on Lines 12 through
12 15, do you see that Mr. Gennett relates that the
13 main demand for services has been growing and that
14 the number of service per employee has increased
15 since 2000.

16 Do you see that?

17 **A.** Yes.

18 **Q.** Then finally at the bottom of the page, he
19 relates certain statistics on retirements of --

20 MR. RATNASWAMY: The paraphrasing, I'm concerned
21 how that's going to appear in the transcript
22 because it's our service and I believe "our" in

1 this context is the union and it's "meter per
2 service employee," not the absolute number of
3 employees.

4 MR. STRAUSS: Are you amendable to making that
5 comment?

6 MR. RATNASWAMY: You can make that comment,
7 that's fine.

8 BY MR. STRAUSS:

9 Q. Finally at the bottom of the page,
10 Mr. Gennett refers to data concerning percentage of
11 retirements of cruel leaders and service specialist
12 No. 1.

13 Do you see those figures at the bottom?

14 A. Yes.

15 Q. Did you ever take an issue with those
16 statistics? Have you, sir?

17 A. I'm not sure that it's guaranteed that all
18 will be lost with their retirement within ten
19 years.

20 Q. You're not certain. That might happen, it
21 might not; is that what you're saying?

22 A. That's correct.

1 MR. STRAUSS: Thank you, Mr. Borgard. I don't
2 have anything further.

3 JUDGE MORAN: Okay. Ms. Lusson, do you want to
4 go next?

5 MR. LUSSON: Sure.

6 CROSS-EXAMINATION

7 BY

8 MS. LUSSON:

9 Q. Good afternoon, Mr. Borgard. My name is
10 Karen Lusson. I'm from the Attorney General's
11 Office.

12 First I'd like to refer you to the
13 bottom of Page 12 of your direct testimony. In
14 there you talk about efforts that have been made to
15 reduce expenses.

16 A. This is in the Peoples Gas testimony?

17 Q. Yes. Yes. Thank you.

18 Is it your testimony that management has
19 expended great effort and has achieved some success
20 in reducing the expenses since the last rate case?

21 A. I believe that's accurate.

22 Q. And at Lines 268 and 271, you refer to the

1 fact that from the 1995 rate case, total expenses
2 have remained essentially flat at about 215
3 million; is that correct?

4 **A.** Yes.

5 **Q.** Would you agree with me that it's the
6 responsibility of public utility management to
7 aggressively seek out and employ new technologies
8 and improve business processes so as to control
9 operating expenses?

10 **A.** Yes, I believe the company should make an
11 attempt to do that.

12 **Q.** If you could, I'd like you to reference the
13 company's response to Attorney General Data Request
14 3.14. I'll give you a copy of it.

15 Here the company was asked, Has the
16 company employed any technological invasions,
17 energy measures or best practices to improve
18 productivity and reduce the costs associated with
19 providing regulated utility services -- and I
20 believe this one is North Shore service territory
21 -- in the past five years?

22 And I believe there was one also for

1 Peoples Gas.

2 And the company stated that it's
3 constantly in the process of identifying and
4 implementing technological and investigating and
5 implementing best practices.

6 Do you know if management of your
7 company intends to continue to seek out
8 efficiencies in cost reduction opportunities after
9 this rate case is completed?

10 **A.** Yes, I believe we will.

11 **Q.** I'd now like to reference the company's
12 response to Data Request 4.09. I'll give you a
13 copy of that.

14 Now, this data request asked for what
15 reasons has each company been able to avoid base
16 rate increases in each year since each company's
17 rates were last impacted by a general rate
18 increase, what known favorable changes and sales
19 levels or cost of improvements in productivity have
20 served to negative earnings per customer and new
21 investment and infrastructure.

22 Now, according to the response, the

1 productivity improvements you achieve, quote, have
2 enabled the company to avoid the need for rate
3 relief; is that correct?

4 **A.** I'm not sure where you're quoting from.

5 **Q.** It references back to your testimony. I
6 believe it's referencing back to the Q and A at
7 Lines 27 the answer at 277, The company has taken
8 several steps to control costs. These efforts have
9 enabled the company to avoid increasing rates for
10 the last decade. And then you mentioned all the
11 cost control efforts that are evident.

12 **A.** I'm sorry. I forgot the question.

13 **Q.** Would you agree with this statement that
14 the productivity improvements you've achieved have
15 enabled the company to avoid the need for rate
16 relief?

17 **MR. RATNASWAMY:** I'm kind of embarrassed, but
18 could you repeat it again because I think I missed
19 a word.

20 **BY MS. LUSSEN:**

21 **Q.** Have the productivity improvements you've
22 achieved enabled the company to avoid the need for

1 rate relief?

2 MR. RATNASWAMY: Is the question that only

3 factor or a factor?

4 BY MS. LUSSON:

5 Q. Is that a factor?

6 A. Yes, it is a factor.

7 Q. Then I think this response from North Shore

8 indicates that there is a decline in borrowing

9 costs that also enabled the company to avoid rate

10 relief --

11 JUDGE MORAN: Is that a question?

12 MS. LUSSON: Yes.

13 THE WITNESS: Yes.

14 BY MS. LUSSON:

15 Q. -- isn't that also true?

16 And then also the customer growth in the

17 North Shore's customer base?

18 A. That's another factor, yes.

19 Q. And speaking of customer numbers, would you

20 be a witness that could attest to numbers that were

21 provided by the company as to year-end customers --

22 by customer class each year from 1995 through 2006?

1 MR. RATNASWAMY: Is it a data request response?

2 JUDGE MORAN: Ms. Lusson, why don't you give to

3 them and then ask them.

4 MR. RATNASWAMY: Are there two here?

5 MS. LUSSON: Yes, for both Peoples and North

6 Shore.

7 Now, I'll mark this as Attorney General

8 Borgard Cross Exhibit No. 1.

9 MR. RATNASWAMY: We're checking who attested to

10 them.

11 They were attested to by Ms. Grace.

12 JUDGE MORAN: Then we're not going to mark it --

13 we're going to hold it. Ms. Lusson, about these

14 other data requests --

15 MS. LUSSON: I just wanted to reference them.

16 Not a huge deal.

17 JUDGE MORAN: Thank you.

18 BY MS. LUSSON:

19 Q. Okay. Let's turn to Page 13 of the direct

20 testimony. You note that the company, quote, has

21 made numerous improvements at Line 280 in its

22 operations that have created efficiencies, end

1 quote. And then at Line 289 you state that these
2 improvements have created efficiencies that allow
3 Peoples to operate and maintain its system with
4 fewer employees than were required in 1995; is that
5 correct?

6 **A.** Yes.

7 **Q.** I want to show you what I'll mark as AG
8 Borgard Cross Exhibit No. 1.

9 JUDGE MORAN: And this is being marked as an
10 exhibit?

11 MS. LUSSON: (Nodding head up and down.)
12 (Whereupon, AG Borgard Cross Exhibit No. 1 was
13 marked for identification, as of this date.)

14 BY MS. LUSSON:

15 **Q.** Mr. Borgard, do you recognize this response
16 as for each year listing from 1995 through 2006
17 annual year-end numbers of customers and numbers of
18 employees for PGL and North Shore and to the extent
19 available approximate equivalent employee counts
20 based on sheered personnel or whom costs are
21 allocated to each of the utility?

22 **A.** I believe my sheet says the number of

1 employees, not the customer.

2 Q. Let's save that for Ms. Grace then,
3 customer counts.

4 This exhibit shows, does it not, that
5 Peoples has reduced its employee levels as of 2006
6 by nearly half since 1995?

7 A. Yes.

8 Q. And when we consider the cost savings
9 associated with lower staffing levels and
10 technological efficiencies that you described,
11 would you agree that rate payers will receive the
12 benefit of lower O&M expenses in this rate case
13 because these savings are reflected in test year
14 results since the last rate case?

15 A. Yes, the reduced number of employees is
16 reflected in the test.

17 Q. The afternoon rates set in this case, would
18 you agree that any future operations and
19 maintenance savings that management might achieve
20 would be retained by shareholders until there is
21 another next rate case test year, which
22 incorporates any of those changes?

1 MR. RATNASWAMY: I'm sorry. Could I hear the
2 question again?

3 BY MS. LUSSON:

4 Q. After new rates are set in this case, would
5 you agree that any future and operation maintenance
6 savings that management might achieve would be
7 retained by shareholders until there is another
8 next rate case test year?

9 MR. RATNASWAMY: Could you advise us what
10 assumption we should make about whether any of the
11 proposed riders are adopted.

12 MS. LUSSON: I'm not -- no assumptions being
13 made about riders at the moment. It's for purposes
14 of typical rate case procedure and how savings are
15 reflected in test years from case to case.

16 THE WITNESS: I think it's fair to say that
17 whatever operation maintenance savings occur
18 between now and the next rate case will go to
19 shareholders; but, likewise, an increase in
20 operations and maintenance cost will also be to
21 shareholders.

22 BY MS. LUSSON:

1 **Q.** There will need to be another rate case in
2 the future to capture and rates any new efficiency
3 occurs that gain after 2007 for the benefit of
4 customers; is that true?

5 **A.** Yes.

6 **Q.** Over Pages 23 through 25 of your direct
7 testimony, you introduce the company's rider volume
8 balancing adjustment, VBA?

9 **A.** I believe it starts at 23.

10 **Q.** Yeah. Beginning on 23 through 25 you talk
11 about Rider VBA; is that correct?

12 **A.** That's correct.

13 **Q.** And you state that at the top of Page 25,
14 this adjustment mechanism will help to maintain the
15 company's margin at the level that results from the
16 order in this docket.

17 And by the term this "adjust mechanism,"
18 you're talking about the Rider VBA proposal; is
19 that right?

20 **A.** Yes.

21 **Q.** Okay. Can we look at your Exhibit 1.2,
22 which shows the use per residential customer.

1 The notion of maintaining margin levels,
2 as you've just described it at the top of Page 25
3 with respect to Rider VBA, would be in contrast to
4 what has happened historically?

5 For example, if we look at LTB 1.2 we
6 can see that margin levels for residential
7 customers have been declining historically for many
8 years; is that correct?

9 **A.** I believe LTB -- Exhibit LTB 1.2 is a use
10 per customer chart.

11 **Q.** Would you agree that the use per customer
12 has been declining historically for many years?

13 **A.** Yes.

14 **Q.** How far back would you say that phenomenon,
15 that is, declining use per customer, has been going
16 on? Does it predate 1995 in your opinion, if you
17 know?

18 **A.** I don't have any specific information on
19 that, but I think it is a long-running trend both
20 here in this service territory and nationally.

21 **Q.** Would you agree with me that looking
22 backwards to the last rate case, the companies have

1 not needed a rate case to earn reasonable returns
2 because management efforts to reduce O&M have been
3 effected and offset the negative trends and usage
4 per customer, as you suggested in your direct
5 testimony?

6 **A.** I think in more recent years, the returns
7 of the company has suffered such that at least up
8 to that point the company did not need rate relief.

9 **Q.** And if you're granted Rider VBA and the
10 historical trends continue in the future, would you
11 expect Rider VBA to increase prices in revenues
12 above what customers would pay with no Rider VBA
13 assuming, again, that the decline use per customer
14 continues, all things being equal?

15 **A.** Could you repeat the question for me?

16 **Q.** Sure.

17 If you're granted Rider VBA in this
18 docket as proposed to you, the companies and
19 historical trends declining usage per customer
20 continue in the future, would you expect Rider VBA
21 to increase above what customers would pay with no
22 Rider VBA, all other things being equal?

1 **A.** I have to think about this one. So you're
2 asking if the historical trend in use per customer
3 continues then Rider VBA is granted, will customers
4 pay a higher cost than had Rider VBA not been
5 granted?

6 **Q.** Would they pay higher prices and the
7 customer receive more revenues than customers would
8 pay with no Rider VBA.

9 JUDGE MORAN: You've got two components.

10 MS. LUSSON: Would customers --

11 JUDGE MORAN: Start with that and then revenues
12 because those are not necessarily equal. Okay.

13 THE WITNESS: So if gas costs -- the cost of the
14 commodity stays the same because you said all is
15 equal and the use per customer declines, will the
16 customers pay?

17 JUDGE MORAN: Can you do that in a data request
18 if -- or is there another witness? I mean, I'm not
19 seeing any action here. So...

20 MS. LUSSON: I guess you could say I don't know.
21 We don't know.

22 THE WITNESS: Well, Mr. Feingold might be a

1 better witness for that question.

2 BY MS. LUSSON:

3 Q. So your answer is "I don't know"?

4 A. My answer is, Mr. Feingold might be a
5 better witness.

6 Q. Is there any offset within Rider VBA that
7 would account for future productivity gains that
8 would happen after the management of the test year?

9 A. I'm not aware of any offset within the
10 Rider VBA mechanism, no.

11 Q. Now, you've referenced generally in your
12 testimony the sort of riders that the company is
13 proposing. We've already talked about Rider VBA,
14 also Rider ICR, UBA and Rider EEP.

15 In your opinion, should the Commission
16 adopt any or all of those riders, especially Rider
17 VBA, UBA or ICR? Have the companies guaranteed
18 that implementation of any of those riders would
19 prolong the amount of time before the companies
20 needed to come in for a rate case?

21 A. If I understand your question correctly, if
22 the riders are granted, I don't believe that the

1 company has made a commitment not to come in for a
2 rate case in any given period.

3 Q. So there's no commitment within this filing
4 that says if the Commission adopts any of these
5 riders, that will prolong the filing of the next
6 rate case X amount of years or months or...

7 A. I don't believe so.

8 Q. And to be clear, Rider VBA doesn't examine
9 overall revenues, but just revenues per customer;
10 is that correct?

11 A. Could you repeat the question for me.

12 Q. To be clear, Rider VBA doesn't examine
13 overall revenues, but rather revenues per customer?

14 A. I think it addresses revenues related to
15 volume-based variances. There are other revenues
16 that it doesn't address, if that's your question.

17 Q. But for purposes of determining whether or
18 not a surcharge is placed on customer bills or, in
19 fact, on any sort of deduction, the measure being
20 examined or the matrix or the data component looks
21 at usage per customer, not overall company
22 revenues; is that right?

1 **A.** I think that's accurate.

2 **Q.** Do you know because of the operation of the
3 way Rider VBA works, the delay in calculating and
4 implementing proposed Rider VBA surcharges each
5 month, it's possible, isn't it, for the company's
6 Rider VBA to kick in with a monthly surcharge on
7 customers' bills even when the company's overall
8 margin revenues are being recovered?

9 **A.** I'm not sure I agree with your premise that
10 there's much of a delay in the Rider VBA.

11 **Q.** And my understanding is that the
12 calculation is made and then the surcharge would
13 appear, what, how many months later for that
14 certain period?

15 **A.** I don't know precisely how it would operate
16 in terms of how many months later it would show up
17 on customer's bill. That would be --

18 **Q.** Or Ms. Grace probably?

19 **A.** Either one probably.

20 **Q.** And you also introduced Rider VBA at
21 Page 26 of your direct testimony, which is a
22 revised method of gas portion of that debt and that

1 would increase or decrease monthly bills based on a
2 bad debt percentage fixed in this order and each
3 month's estimated gas charge revenue would be
4 multiplied by this value and then divided by
5 forecast therms expected to be delivered as shown
6 on Ms. Grace's 1.13 and 1.14?

7 **A.** Again, that's probably a question better
8 asked to Ms. Grace.

9 **Q.** So you're not clear on the exact details of
10 how that would be calculated?

11 **A.** That's correct.

12 **Q.** Is it your testimony, though, that it's
13 being offered as design to that -- to help
14 guarantee that the company recovers at least the
15 gas cost portion of bad debt expense? Is that
16 true?

17 **A.** It's being proposed to address the gas
18 portion of that debt, yes.

19 **Q.** And to ensure that more of that is
20 recovered?

21 **A.** That's correct.

22 **Q.** In Rider ICR surcharges on customer bills

1 on a monthly basis associated with reimbursement
2 for capital spending on certain capital addition
3 accounts, would it not?

4 **A.** Yes.

5 **Q.** Now, would you know, there would not be any
6 decreases to these associated with operation and
7 maintenance savings attributable to these plan
8 additions, would there?

9 **A.** Mr. Schott's testimony addresses that, but
10 I don't believe that there are any offsets in his
11 testimony.

12 **Q.** And so going back to your rate case
13 discussion and the timing and when rates reflect
14 what's happening to a company's bottom line and the
15 next time those efficiencies would be captured in
16 rates would be when the company files its next rate
17 case; is that correct?

18 **A.** Yes.

19 **Q.** Given the fact that implementation of these
20 riders would guarantee the recovery of the gas cost
21 portion of uncollectibles, the cost of a
22 significant group of distribution plant additions

1 and a base level of revenues per customer, would
2 you agree that implementation of any or all of
3 these riders would reduce the company's overall
4 financial risk?

5 **A.** No.

6 **Q.** So no one from Wall Street has indicated
7 that those are good proposals to make in rate cases
8 in terms of increasing the financial standing of
9 the company?

10 **A.** Again, I think that's probably outside the
11 balance of my testimony. Mr. Moul would be best
12 suited to answer that.

13 **Q.** Let's go to your rebuttal testimony,
14 Page 12, Line 258. Here there's a discussion of
15 the calculation of or reflection of margin revenue
16 values as used by Witness Brosch; is that correct?

17 **A.** I'm not sure he calls them margin revenues.
18 He uses different words for it, but it's a
19 discussion about the margin.

20 **Q.** And at Line 215 -- 259 you state,
21 Mr. Brosch's margin revenue figures for Peoples Gas
22 and North Shore are significantly inflated because

1 he did not exclude revenues from add-on revenue
2 taxes that do not contribute to margin and did not
3 subtract the environmental costs that are covered
4 through Peoples Gas Rider 11?

5 **A.** That's correct.

6 **Q.** Now, in if you return to your surrebuttal
7 testimony at Page 7, Lines 142, you state,
8 Mr. Brosch's rebuttal testimony denies that he
9 miscalculated the utilities margin revenues, but he
10 agrees and relies on data request responses that
11 were expressly labeled as gross margin.

12 So I take it from that reference that
13 you reviewed Mr. Brosch's rebuttal testimony?

14 **A.** I did.

15 **Q.** And isn't it a fact that Mr. Brosch didn't
16 calculate any gross margin values, but simply used
17 values reported by the company's in a column of
18 numbers captioned "gross margin"?

19 **A.** I believe that's what his testimony says,
20 yes.

21 **Q.** And did you notice at Pages 6 and 76 his
22 rebuttal that Mr. Brosch presented both the

1 reported amounts of gross margin as well as the
2 companies preferred definition of margin revenues
3 in two graphs that he captioned Table 6 and 7? Do
4 you recall seeing that?

5 A. I recall seeing graphs in his testimony. I
6 don't have it in front of me, though.

7 Q. Near the bottom of the your surrebuttal,
8 you state, Nothing in Mr. Brosch's alters the fact
9 that the utilities have experienced significant
10 declines in their margin revenues from fiscal year
11 2003 to fiscal year 2005.

12 Do you see that passage?

13 A. Yes.

14 Q. Isn't it true that these significant
15 declines in margin revenues in recent years is part
16 of the reason that these rate cases were filed?

17 A. Yes.

18 Q. Would you agree that the companies recent
19 financial performance is the reason for the filing
20 of the pen- -- these pending cases?

21 A. That's part of the reason, yes.

22 Q. And would you agree that in these two

1 cases, Peoples Gas and North Shore, the cumulative
2 effect of all the changes and base investment,
3 sales volumes, expense levels and the cost of
4 capital are being considered and recognized in the
5 establishment of new tariffs for gas service, gas
6 delivery service?

7 **A.** I believe that's the purpose of this
8 docket, yes. I don't believe they've been
9 calculated to determine at this point, though.

10 **Q.** Right. And so the company filed these
11 cases with at least one purpose in mind to capture
12 the effect of reduced sales and margin revenues for
13 the test year as well as all of the other changes
14 in the company's revenue requirement; is that true?

15 **A.** Yes.

16 **Q.** Now, with respect to the company's proposed
17 Rider EEP and its proposed seven and a half million
18 spending amount for energy efficiency programs, you
19 highlight that at Page 222 and 23 of your direct.
20 I'd also like to call your attention to the
21 companies response to AG 14.01.

22 And that data request asks, Do the

1 companies have any specific plans to, quote, grow
2 their new energy efficiency role should Riders VBA
3 and EEP be approved by the Commission. And the
4 company -- is it correct that the company
5 responded, The companies do not have any specific
6 plans to, quote, grow their new energy efficiency
7 role, end quote, should Riders VBA and EEP be
8 approved by the Commission?

9 **A.** That's part of the response, yes.

10 **Q.** And that's still the case, there is no
11 plans for any sort of increased or larger role
12 beyond the seven-and-a-half-million program being
13 proposed here with or without the riders?

14 **A.** I believe the data response request is
15 still accurate, yes.

16 **Q.** Pages 8 and 9 on direct you discuss the
17 company's authorized returns from the last rate
18 case and the run-on equity that the company has
19 experienced in the last few years. And you state
20 in your testimonies that declining use of natural
21 gas per customer requires adoption of Rider VBA.

22 For example, at Page 23 of your Peoples

1 Gas testimony, you state that the company -- the
2 company needs to -- this is at Line 508 -- the
3 company needs to decouple its cost recovery from
4 the volumes used by customers particularly with
5 respect to nonusage sensitive costs of service if
6 it is to have any chance of earning a reasonable
7 return and thereby maintain its ability to
8 maintain, save adequate and reliable service to
9 customers and an increasing energy efficient
10 environment.

11 Do you see that testimony?

12 **A.** Yes.

13 **Q.** And then at Page 18 of your direct you
14 state, While the company believes -- this is at
15 Line 400 -- While the company believes that
16 conservation should be encouraged, it cannot
17 continue to absorb the related margin revenue
18 losses. These losses threaten the ability to
19 continue to provide safe, adequate and reliable
20 service to all customers.

21 Is it the company's position that if
22 Rider VBA is not adopted that it cannot provide

1 safe, adequate and reliable service to all
2 customers?

3 **A.** No, that is not the company's position.

4 **Q.** I wanted to show you what I'll mark as AG
5 Borgard Cross Exhibit No. 2.

6 (Whereupon, AG Borgard Cross Exhibit No. 2 was
7 marked for identification, as of this date.)

8 BY MS. LUSSON:

9 **Q.** In that response, you cite Mr. Feingold's
10 testimony and state at Part A that Peoples Gas
11 incurred margin revenue losses in nine years of a
12 ten-year period, 1997 to 2006.

13 Do you see that in Part A?

14 **A.** Yes.

15 **Q.** And I think you express similar concern
16 with respect to North Shore's recovery margin
17 Feingold's testimony; is that true?

18 **A.** Yes, in Part A.

19 **Q.** So this problem of absorbing margin losses
20 due to conservation has been around at least a
21 decade or more; is that correct?

22 **A.** Yes, I believe that's accurate.

1 **Q.** And this data request also asked in Part D
2 whether the company prepared for other studies for
3 Peoples Gas or for North Shore to support its
4 conclusion that, quote, these losses threaten the
5 ability to continue to provide safe, adequate and
6 reliable service to all customers, end quote.

7 Do you see that question?

8 **A.** Yes.

9 **Q.** And the company respond that no such
10 studies have been prepared; is that true?

11 **A.** That's the response, yes.

12 **Q.** And is that still the case, no such studies
13 have been prepared, as far as you know?

14 **A.** I believe that's accurate.

15 **Q.** Now, I'll show you what I'll mark as AG
16 Borgard Cross Exhibit No. 3.

17

18 (Whereupon, AG Borgard Cross Exhibit No. 3 was
19 marked for identification, as of this date.)

20 BY MS. LUSSEN:

21 **Q.** This is the company's response to data
22 request 4.08 and this asks the company returns on

1 rate base that were earned by each company in each
2 calendar year since last impacted by a general rate
3 increase approved by the Commission; is that
4 correct?

5 **A.** Yes.

6 **Q.** Now, my recollection from your testimony is
7 that in the last rate case, Peoples was awarded a
8 return on equity of 11.10 percent; does that sound
9 right?

10 **A.** I believe that's accurate.

11 **Q.** At Page 8 of your Peoples testimony, I
12 think also at Page 8 of your North Shore testimony,
13 I think you indicated it was 11.3 percent for North
14 Shore.

15 Now, looking at these responses, is it
16 correct that given those returns on the approved
17 return on equity level that first looking at
18 Peoples, that Peoples was able to exceed its
19 allowed return on equity in 1996, 1997, 1998, 2000,
20 2001, 2002 and 2003?

21 **A.** I'm not sure what you mean, exceed its
22 authorized level.

1 **Q.** It earned above the authorized return on
2 equity.

3 **A.** I believe it earned what it was allowed to
4 earn pursuant to its tariffs.

5 **Q.** And the reported return on common equity
6 was above 11.10 percent in those years; is that
7 correct?

8 **A.** Yes.

9 **Q.** And in looking at North Shore's allowed
10 returns -- and, again, recalling that the
11 Commission approved an 11.3 return on equity for
12 North Shore, is it correct that North Shore earned
13 above that 11.3 percent level in 1996, 1997, 1998,
14 2001, 2002, and 2003?

15 **A.** Mine has both Peoples. So let me just
16 steal John's here.

17 I believe that's accurate, yes.

18 **Q.** And then looking back at LTB 1.2, which
19 showed the declines in usage per customer, would
20 you agree that there are several years wherein the
21 company experienced declining use per customer, but
22 still managed to achieve its authorized return for

1 that year given these return on equity figures?

2 **A.** Exhibit LTB 1.2 shows a decline in use in
3 normal basis virtually every year. We've just gone
4 through the fact that the return on common equity
5 in certain years was -- we had just gone through my
6 responses to the other questions. So, yes, I
7 believe that's accurate.

8 **Q.** Okay. And, finally, in your job
9 description, you include the words "customer
10 contact" as that as part of your job
11 responsibilities; is that true?

12 **A.** I'm not sure where you're directing me to.

13 **Q.** Line 64 and 65 on Page 3. In this
14 position, engineering, customer contact, payment
15 processing, credit and collections; is that
16 correct?

17 **A.** Yes.

18 **Q.** I want to show you what I'll mark as AG
19 Borgard Cross Exhibit No. 4.

20 (Whereupon, AG Borgard Cross Exhibit No. 4 was
21 marked for identification, as of this date.)

22 BY MS. LUSSON:

1 **Q.** Now, this is a bill insert -- according to
2 the insert it's dated February 14th of '07. Do you
3 recognize this as an insert that would have
4 appeared in probably residential customer bills?

5 **A.** For Peoples Gas customers, yes.

6 **Q.** And if you look at the first paragraph it
7 states, This February has been the coldest in 112
8 years. We know that your gas bill is higher
9 because you are using more gas. On average homes
10 served by Peoples Gas used 44 percent more gas this
11 February than a year ago.

12 You would agree, wouldn't you, that
13 weather obviously effects whether declines in both
14 overall usage and usage per customer occur?

15 **A.** I would agree that weather has a
16 significant effect on customers' usage of natural
17 gas.

18 **Q.** And that's always been the case in terms of
19 the amount of revenues that the company takes in,
20 that weather plays a large and important factor in
21 the amount of revenues and in the amount of -- and
22 the level of usage of customers of natural gas?

1 **A.** Yes.

2 **Q.** So, for example, looking again at this
3 insert, which includes a table showing average
4 residential heating consumption that was more than
5 50 therms higher in 2007 as compared to usage in
6 February of 2006, would you agree that at least for
7 that month, usage per customer was probably much
8 higher than normalized levels shown in your
9 Exhibit 1.2?

10 MR. RATNASWAMY: I think you're referring to a
11 chart that is only for 12 days, not for a month.

12 BY MS. LUSSON:

13 **Q.** All right. For -- given the fact that the
14 paragraph -- let's go back to just the paragraph
15 then. All this was issued in February 14th.

16 So at least for half of that month, then
17 the company was experiencing higher than normal
18 levels of usage to the extent that the company was
19 so concerned about the level of gas of residential
20 heating customer gas bills that they inserted this
21 bill insert?

22 **A.** Customer usage for the 12 days in February

1 2007 was significantly higher than the usage for
2 the same period a year earlier, yes.

3 Q. And would you agree that despite any global
4 warming trends that exist, it doesn't necessarily
5 translate into warmer than normal weather for, say,
6 the next year?

7 MR. RATNASWAMY: Could you tie us to something
8 in his testimony just so we can know if it's within
9 the scope?

10 MS. LUSSON: Well, I think you referenced the
11 heating -- the change in the heating degree day
12 forecast from a 30-year to a ten-year, I think, at
13 Page 18 of your direct.

14 BY MS. LUSSON:

15 Q. You note the company's proposal to go move
16 to normal degree day measure based on 10 years
17 rather than the 30 years used previously.

18 So, again, I'll repeat my question that
19 despite any global warming trends that might exist,
20 it doesn't always translate into warmer than normal
21 weather in the next immediate year? There's no way
22 to predict that?

1 MR. RATNASWAMY: Your Honors, I'm having trouble
2 seeing it as in the scope notwithstanding this
3 paragraph that talks about moving from 30 years to
4 10 years.

5 JUDGE GILBERT: Are you making a formal
6 objection?

7 MR. RATNASWAMY: I think it would be the scope
8 of Dr. Takle's testimony, but I don't see how it's
9 in the scope of Mr. Borgard's testimony.

10 MS. LUSSON: Well, in response I would just
11 point out that I thought Mr. Borgard would be the
12 witness since he as the president of the company
13 would be able to talk about a bill insert and its
14 meaning or lack of meaning also within the context
15 of his discussion and introduction of the proposal
16 to move to a normal degree day measure based on 10
17 years rather than 30 years.

18 JUDGE GILBERT: Point, again, to whatever area
19 in his written testimony you believe it is within
20 the scope.

21 MS. LUSSON: That would be at Page 18 of his
22 direct, in particular Lines 386 through 388.

1 JUDGE MORAN: That paragraph seems to be
2 introductory to the witnesses that will be talking
3 about that.

4 MS. LUSSON: Okay.

5 JUDGE GILBERT: Yeah, it's clear that what
6 you're attempting to do -- and that was even
7 suggested in the ruling on your motion -- is regain
8 some of the testimony that it was lost in the
9 motions to strike. I don't know if this the
10 witness can do it. It sounds like a perfectly
11 acceptable question for Dr. Takle. So we'll leave
12 it at that.

13 We'll sustain the objection for now
14 subject to your being able to ask that question
15 with the doctor.

16 MS. LUSSON: Okay.

17 And I believe that is all the questions
18 I had. Thank you, Mr. Borgard.

19 THE WITNESS: Thank you.

20 MS. LUSSON: And I would move for the admission
21 of AG Borgard Cross Exhibits 1 through 3, which I
22 think excludes the last one.

1 JUDGE MORAN: So you're not putting this one
2 in -- or you're not moving to put that one?
3 MS. LUSSON: I'll withhold moving it in at the
4 moment.
5 JUDGE MORAN: I see.
6 JUDGE GILBERT: Just 1 through 3?
7 MS. LUSSON: Yes.
8 JUDGE MORAN: So this may be remarked.
9 JUDGE GILBERT: Objection to any of 1 through 3?
10 MR. RATNASWAMY: I'd like to make sure, 1 is the
11 response to AG 5.23; is that correct?
12 JUDGE MORAN: 6.
13 JUDGE GILBERT: He's correct, that is 1.
14 MS. LUSSON: Yes, I point --
15 MR. RATNASWAMY: No objection. 2 is 6.03.
16 JUDGE MORAN: Mm-hmm. Yes.
17 MR. RATNASWAMY: I do not have an objection to
18 that. And 3 is the Peoples version and the North
19 Shore version of AG 4.08; is that right?
20 MS. LUSSON: Yes.
21 MR. RATNASWAMY: I do not have an objection to
22 that.

1 (Whereupon, AG Borgard Cross Exhibit Nos. 1 through
2 3 was admitted into evidence.)

3 CROSS-EXAMINATION

4 BY

5 MR. MOORE:

6 Q. I'm Steve Moore. I'll be asking you
7 questions.

8 First of all, the company has proposed
9 to put the uncollectible expenses into the PGN; is
10 that correct? They're proposing to do that, to
11 remove it from the underlying costs?

12 A. The company proposed a rider that
13 effectively addresses the uncollectible portion --
14 the gas portion of the uncollectible debt.

15 Q. Just the gas portion, correct, and that
16 would leave the remaining portion of
17 uncollectibles?

18 A. I believe that's correct, yes.

19 Q. And now, what's -- the purpose of that was
20 to make certain that the customers that are
21 responsible for the uncollectible portion, the gas
22 portion of uncollectibles pay for it; is that

1 correct?

2 **A.** I think that's one purpose.

3 **Q.** Okay. And in this context, for example,

4 the sales customers would be paying for that

5 particular rider, whereas Customers For You would

6 not be paying it?

7 **A.** When you say "Customers For You," do you

8 mean the specific program that the company offers?

9 **Q.** Yes.

10 **A.** I believe that's accurate.

11 **Q.** Okay. That's the Customer For You Program.

12 Now, all customers that are with the

13 companies Rates 1 and 2 are eligible to take

14 customers?

15 **A.** I believe so, yes.

16 **Q.** And together between Peoples and North

17 Shore, your Rate 1 and 2 is about a million

18 customers?

19 **A.** Roughly.

20 **Q.** And is it your understanding that about

21 three percent of those are taking service under

22 Customers For You?

1 **A.** I think that's a fair rough estimate.

2 **Q.** Okay.

3 MR. RATNASWAMY: The Choices For You.

4 MR. MOORE: Thanks.

5 THE WITNESS: It's a new program.

6 BY MR. MOORE:

7 **Q.** Now, currently, the company has --

8 companies have collection functions that service

9 all of their customers under Rate 1 and 2, which

10 would include sales and Choices For You customers,

11 correct, in the sense that -- well, go ahead.

12 **A.** I'm not sure that I could say that the

13 company has customers --

14 **Q.** Well --

15 **A.** -- pursuant to the program.

16 **Q.** Yeah, that's -- let's do it this way:

17 First I'm going to ask you some questions about a

18 sales customer.

19 Now, when a sales customer pays only a

20 portion of their bill, does the company try to

21 allocate between commodity charges, monthly service

22 charges and delivery charges?

1 **A.** There's no allocation. There's a step
2 through that, you know, the first hour gets applied
3 to a company fixed -- there's a specific procedure
4 whereby the dollars fill up buckets before spilling
5 over to the next bucket, so to speak.

6 **Q.** And what are those buckets?

7 **A.** I believe those buckets are -- I could read
8 my testimony, actually. I believe there's four
9 buckets. There's essentially the delivery charge
10 bucket, the gas cost bucket for the company's cost,
11 the customers who don't partake in the program, and
12 then there's the same two buckets for customers who
13 do partake in the program.

14 Do you follow me?

15 **Q.** I believe so. Let's just assume for a
16 second then that the a customer who -- first I want
17 to talk about only customers that are taking sale
18 service.

19 Is there any allocation of their charges
20 if they make a partial payment?

21 **A.** I don't believe so, but Mr. Zack would
22 probably know more definitively than I would.

1 **Q.** Okay. Now, let's get back to what you were
2 saying earlier that there was a Choices For You
3 customer when they make a partial payment, the
4 first two buckets are for the utility bucket and
5 then the next two bucks are for the supplier?

6 **A.** In order of filling the buckets today, I
7 don't believe that's the case.

8 **Q.** That's correct. Let's, first of all, go
9 with what the order is today. Again, I believe you
10 said it, the buckets are first, the utilities
11 delivery charges past due, then the supplier's --
12 gas costs past due and then the utility's delivery
13 charges current and the suppliers delivery charges
14 current?

15 **A.** Could you repeat that? I'm not sure.

16 **Q.** Well, why don't you tell me what the
17 current way is. I just wanted to make sure I
18 understood it. I want to distinguish between
19 current and proposed.

20 **A.** I believe that the current process
21 alternates between the company and the Choice
22 customers in terms of current and then past due.

1 So company current, Choice customer current,
2 company rears, so to speak, and then Choice
3 customer rears.

4 Q. Okay. And the proposal, how is that
5 changing?

6 A. The proposal is by Mr. Zack. He's probably
7 a better witness to answer this question, but I
8 believe that what he proposes that both the company
9 buckets fill before the Choice customer buckets do.

10 Q. Okay. Now, if a sales customer that was a
11 customer not under Choice For You only pays part of
12 their bill, the utility could pursue that for
13 collections, correct?

14 A. Yes.

15 Q. And that could go all the way to
16 disconnection?

17 A. Yes.

18 Q. Now, if a Choices For You customer only
19 pays a portion of the bill, but pays enough to pay
20 the utility buckets, the utility would not
21 disconnect on behalf of the supplier, is that
22 correct, where they had not paid the supplier's

1 bucket?

2 **A.** I believe that's correct, yes.

3 **Q.** And that's under the current and any
4 proposed tariff by Mr. Zack; is that correct?

5 **A.** That's correct.

6 **Q.** Now, the cost of collection, that would
7 include staffing, computer, office space, that is
8 recovered in the delivery charge or customer charge
9 or both? Do you know where those would be
10 allocated?

11 **A.** I'm not sure I understand the distinction.

12 **Q.** Well, we have inequitable accounts, then we
13 have the amount the utility actually spends to
14 process uncollectible, that amount that it has to
15 spend to process uncollectible, where is that
16 within its cost of service study and how is it
17 recovered? Do you know?

18 **A.** I believe it's in base rate as opposed to
19 the gas costs, if that's what you're asking.

20 **Q.** Yes.

21 Whereas for Choices For You suppliers,
22 any of their cost of processing uncollectibles

1 would have to be recovered within their gas cost;

2 is that correct?

3 **A.** I'm not sure how they would recover it, but

4 that seems like a reasonable --

5 **Q.** That's the only charge they're getting as

6 customers, right?

7 **A.** Again, I'm not familiar with all the

8 charges they impose on customers, but it's a

9 reasonable way for me to assume that they do it.

10 MR. MOORE: That's all I have.

11 JUDGE MORAN: Okay. Thank you.

12 JUDGE GILBERT: I think we've gone through all

13 the bidders.

14 JUDGE MORAN: Staff?

15 MR. JAVAHERIAN: We're waiving our cross. Thank

16 you.

17 JUDGE GILBERT: I've got a few.

18 EXAMINATION

19 BY

20 JUDGE GILBERT:

21 **Q.** Actually, why don't I just pick up with

22 purchase of receivables where Mr. Moore left off --

1 at least left off in general. I don't mean I have
2 the next obvious question.

3 My initial reaction on reading
4 Mr. Crist's proposal was why would I want to buy
5 somebody's bad debt? What do I want that for? But
6 there are businesses that do that and make a profit
7 at it.

8 As I understand it, there are utilities
9 that have affirmatively chosen to purchase
10 receivables and not necessarily done it under the
11 compulsion of Commission order, but have chosen to
12 do that.

13 So where with respect to the
14 desirability of it -- isn't it just a question of
15 discount rate on a debt?

16 **A.** I think that's one component of it, but the
17 bigger component, from my standpoint, is whether
18 the company chooses to be in that business or not
19 or whether it's better left to other people to
20 supply that service and the company chooses not to
21 be in that business.

22 **Q.** Okay. And just to play devil's advocate

1 with you, under that, they will probably already
2 say, Well, if you can make money off of it, you
3 don't want to help a competitor do their business,
4 how would you respond to that?

5 **A.** Well, I didn't see anything in the
6 testimony that describes in full a plan that the
7 company could even make money at it. It's a very
8 vague proposal, at least to what I've read.

9 **Q.** Okay. Just a couple things I want to check
10 with you. These are small things, but if you take
11 a look at Page 10 of your rebuttal, take a look at
12 that last paragraph there that starts on Line 220
13 and it runs over into the next page down to 235. I
14 have a couple questions about that paragraph.

15 **A.** I'm sorry. Is this where it starts, CUB
16 City present any proposals, or am I at the wrong
17 place?

18 **Q.** No. What I have in your rebuttal on
19 Page 10 at Line 20 begins with the words, Also
20 Mr. Crist and it goes on from there.

21 MR. RATNASWAMY: I'm sorry, your Honor, is it
22 rebuttal or surrebuttal?

1 BY JUDGE GILBERT:

2 Q. My mistake. I am at surrebuttal. Thank
3 you.

4 A. I have it, yes.

5 Q. Okay. You're making a distinction there
6 between some of the opportunities and limitations
7 on CFY suppliers versus the companies and one of
8 the things you make reference to at the very end of
9 Page 10 on Line 223 is charging early termination
10 fees.

11 Are you suggesting there that the
12 companies do not charge early terminations fees in
13 certain circumstances?

14 A. When you ask "companies," do you mean the
15 company?

16 Q. Yes. Yes, I do.

17 A. I think the whole purpose of this paragraph
18 is to suggest that the CFY suppliers have much more
19 optionality in the kind of fees that they supply
20 including the termination service fee.

21 Q. All right. But just for my satisfaction
22 here, this is, in fact, true that Peoples and North

1 Shore have early termination fees as well as in
2 connection with certain tariffs, do they not?

3 **A.** I'm not sure that I can answer that.

4 **Q.** Okay. Let's go down to Line 230 on
5 Page 11. And there you refer to informal and
6 formal complaint procedures and I think you're
7 suggesting there that the company -- your companies
8 are subject to those procedures and, perhaps, CFY
9 suppliers are not; but that would not be true,
10 would it?

11 Cannot a customer or customer, in fact,
12 bring a complaint against the CFY supplier before
13 this Commission?

14 **A.** Yes, I believe they can.

15 **Q.** Okay. Now, to the rebuttal -- sorry for
16 the confusion before. If you take a look at Page
17 13, there's a heading there on 284, and the heading
18 B is "staffing and training."

19 Does the local -- and if I use the term
20 "local" here, each time I'm referring to 18007.

21 Does the local perform any training for
22 Peoples Gas?

1 **A.** I'm sure that the members of 18 double 07
2 provides some level of training to other members of
3 Local 18 double 07. I'm not sure if that's what
4 you mean, if the local provides training to Peoples
5 Gas.

6 **Q.** All right. So you do believe that the
7 local trained local members for the work they
8 perform for Peoples Gas in some fashion?

9 **A.** Sure. There are some circumstances where
10 Local 18 double 07 members train other Local 18
11 double 07 members on other tasks, sure.

12 **Q.** Is any of that training done off of company
13 team or is it all done on company time or is there
14 both, if you know?

15 **A.** I don't believe I can answer that either.
16 I don't know the answer to that.

17 **Q.** Would you agree that Peoples and/or North
18 Shore rely on the local for any training in the
19 performance of their duties for North Shore and/or
20 Peoples Gas? Is there a reliance there?

21 **A.** Yeah, I believe there's an expectation that
22 members of crews train each other. Yes.

1 **Q.** Okay. And is that apart from the training
2 that would be received by a nonunion or a nonlocal
3 member?

4 **A.** Yes, there's additional training that
5 nonlocal -- that members of Local 18 double 07
6 receive from people other than members of Local 18
7 double 07.

8 **Q.** And is there additional training that
9 nonmembers of the local receive if nonmembers --

10 **A.** Sure.

11 **Q.** Okay. And with any specificity, you
12 wouldn't know what kind of training is performed by
13 a local member and what kind of training is
14 performed by a nonlocal member? You couldn't make
15 a list for me of the kind of things I've done my
16 one group versus the other?

17 **A.** No, I would just suggest that, generally
18 speaking, the training that goes on kind of within
19 a crew during a certain day is probably more
20 operational and hands-on focused on the job at hand
21 that day as opposed to maybe longer term training
22 related to, for example, operator qualification

1 training as an example.

2 Q. Okay. Does the local provide any
3 certification for Peoples Gas and/or North Shore
4 employees?

5 A. I don't believe I know the answer to that.

6 Q. Okay. Staying kind of generally with the
7 subject, if you look at the next page, Page 14 of
8 your rebuttal, I'm going to ask you about your use
9 of the word "inflexible" on Line 304, but you may
10 want to familiarize yourself with that entire
11 paragraph.

12 A. Okay.

13 Q. All right. And I'll show you my card. I'm
14 not trying to confuse you here.

15 When you say "inflexible," my
16 understanding here is you're going to -- if you're
17 going to replace an employee, it's going to be with
18 somebody and that somebody will either be a local
19 member or not a local member, all right.

20 Now, is your objection to the
21 one-for-one program in terms of inflexibility, is
22 your objection that that program requires us to

1 hire a local member or is there some other
2 attribute of inflexibility you're talking about?

3 **A.** The inflexibility that I'm attempting to
4 describe here is the requirement that when one
5 person leaves, you must replace that one person
6 with another person. My expectation is that if
7 it's an employee of Peoples, it will be a Local 18
8 double 07 employee.

9 So the inflexibility is when the number
10 of people that we need in given locations, given
11 work groups and how that number may change over
12 time, not with respect of whether the replacement
13 of an 18 double 07 member is, indeed, another 18 or
14 a non-18 double 07 member.

15 **Q.** So is the inflexibility more about the work
16 rules that are set out with your contract with the
17 local rather than the person who does the replacing
18 of the worker who is leaving?

19 **A.** No, it's whether the company needs a
20 replacement person or not. And the proposal, as I
21 understand it, requires -- would require the
22 company, if somebody were to leave for retirement,

1 as an example, to replace that person each and
2 every time now and forever.

3 Q. Okay. I thought I had you, now I'm a
4 little confused.

5 So your objection is to having to fill
6 that spot at all, not whether you have to fill it
7 with a local employee or subject to your contract
8 with the local?

9 A. Yes, that's our objection.

10 Q. All right. I want to ask you about margin
11 revenues. There have been more than one definition
12 I think in the record and let's see if you could
13 help with this.

14 Actually, take a look at Page 12, if you
15 would, of your rebuttal. All right. On Line 254,
16 the second line of testimony on the page, you have
17 a definition there of margin revenues and it's
18 pretty simple, revenues less costs. All right.

19 Well, I'm -- I'm going to ask you this:
20 Is that your definition of margin revenues? You
21 put it there in parens to suggest that it is, the
22 other paragraphs suggest that there is a couple of

1 modifications that you would make?

2 **A.** Yeah, I think I -- for the appropriate
3 definition of margin revenues, I point you to the
4 direct testimony, Page 17, where we initially lay
5 out the concept, Line 381, where it says, Margin
6 revenues, i.e., its cost of service exclusive of
7 purchase gas and flow-through items. I think
8 that's a more full definition of margin revenues as
9 it's used in my testimony.

10 **Q.** And that was where, I'm sorry?

11 **A.** Page 17 of the direct.

12 **Q.** Okay. I'm there.

13 **A.** Line 381.

14 **Q.** Okay. And just so I'm talking about apples
15 when you are. If you look at Page 25, the second
16 line -- I'm sorry. Page 25 of the direct, the
17 second line of the sentence begins, This adjustment
18 mechanism, and you're referring to margin there.

19 What does "margin" mean there on
20 Line 540?

21 **A.** Margin on Line -- margin, the word by
22 itself in this case on Line 540 is really spoken

1 there about the effects of Rider VBA and its
2 attempt to preserve the margin that the company
3 would earn based on volumetric changes.

4 **Q.** All right. And I'm not generally trying to
5 quarrel with you, I'm seeing -- had to write in an
6 understanding and I'm going to have to use this
7 word more than one.

8 Why did you say revenues there when
9 margin seems to imply something else and I thought
10 you meant in a sense profit or return on equity or
11 rate of return?

12 **A.** Your question is, why I didn't use the term
13 "revenue" in conjunction with margin on Line 540?

14 **Q.** Yes.

15 **A.** I think it's probably clear to say the word
16 "margin" without marginal revenues because then I
17 think it gets confused with the same subject that
18 we're talking about with Mr. Brosch.

19 **Q.** Brosch, isn't it?

20 **A.** That's correct.

21 **Q.** And then on Line 45, we have the term
22 "margin recovery," citing both Mr. Feingold and

1 Ms. Grace.

2 Now, I'm looking potentially at the
3 exceptions at which your counsel says the ALJs have
4 clearly misunderstood what we meant by margin
5 revenues or margins or margin recovery. And at
6 this time, I really don't know the answer to the
7 question. I'm not trying to trap you here. I do
8 not know the answer to the question. I don't
9 understand why you used margin on Line 540.

10 Tell you what, answer some other
11 questions. I know you'd rather not answer this
12 one. You don't have to, but you're running the
13 risk -- the company's running the risk of the ALJs
14 not understanding what you're trying to say with
15 the varying definitions or the potential varying
16 definitions of margin and margin revenue especially
17 when the other parties made it a contested issue.

18 So I would caucus tonight if you don't
19 want to answer this now and pick someone who will
20 clarify at least for me -- I mean, Judge Moran may
21 be very comfortable with this, but I am not --
22 clarify for us what these terms are meant to say.

1 **A.** Well, I think Mr. Feingold can do that.

2 **Q.** Okay.

3 **A.** He goes into a lot more detail around the
4 whole concept of margin revenue than I do.

5 **Q.** Okay. I have one more -- I'm going to give
6 you a proposition as I did a previous witness and
7 expound on it as you will.

8 I believe it's Page 14, Line 304. I'm
9 going to begin with this and I'm going to sort of
10 expand upon it.

11 You say the main driver for the need to
12 any increase is to lower throughput. Let me
13 connect that to some of the things I've read and
14 heard thus far. You're selling less so you need to
15 charge more, you need riders to get it earlier and
16 you need to trim the cost of labor.

17 That sounds dire, are you guys in a dire
18 situation right now?

19 **A.** Well, I don't know about the word "dire
20 situation" right now. I think what we're
21 attempting to do with the various mechanisms that
22 are described here is to take a situation that was

1 established 12 years ago and kind of update it for
2 newer and measurable items that we've learned over
3 the last 12 years.

4 So we've asked for things like the VBA
5 rider and the UBA rider, we've asked for the ICR
6 rider because we would like to accelerate the
7 investment and the cast-iron main replacement
8 program. I wouldn't describe that as dire, but
9 left unchecked, I think it gets worse and worse and
10 worse every single year.

11 **Q.** Okay.

12 JUDGE GILBERT: I'm done.

13 Redirect?

14 MR. RATNASWAMY: Briefly, your Honor.

15 MR. STRAUSS: Can I follow up on a question
16 Judge Gilbert asked?

17 RE CROSS-EXAMINATION

18 BY

19 MR. STRAUSS:

20 **Q.** Mr. Borgard, for ensuring the work force is
21 adequately trained?

22 **A.** Yes.

1 **Q.** And that is not an obligation of Local 18
2 double 07; is that correct?

3 **A.** I don't believe that's an obligation of
4 Local 18 double 07, but we have an expectation that
5 trained workers train other workers.

6 **Q.** You can have that expectation that that
7 goes on as a general matter -- let me ask it again.

8 You have an expectation that goes on
9 generally on the job; is that correct?

10 **A.** That's correct.

11 MR. STRAUSS: Very well. Thank you.

12 JUDGE MORAN: Okay. And is there redirect?

13 MR. RATNASWAMY: Yes.

14 Could we just have a moment?

15 JUDGE MORAN: Sure. We can take five minutes.

16 And then how many -- how much time do people have
17 for Mr. Schanay (phonetic)?

18 MR. STRAUSS: No one has any cross for him.

19 MR. RATNASWAMY: We have cross for him prepared
20 for Wednesday. We're prepared to waive that cross
21 now.

22 JUDGE MORAN: So no one is going to cross

1 Mr. Schanay except Judge Gilbert?

2 Do you have any questions?

3 MR. STRAUSS: Your Honor, he's here. He's

4 available. If the judges has questions, we'd be

5 happy to put him on.

6 JUDGE MORAN: That is Mr. Schanay?

7 MR. STRAUSS: Mr. Schanay is here.

8 JUDGE GILBERT: Well, yeah, I'm being put in a

9 bind I don't want to be put into. He was going to

10 be crossed on Wednesday?

11 MR. STRAUSS: Yes.

12 JUDGE GILBERT: I am not prepared to say I don't

13 have questions for him today. So he may come back,

14 but I will perform the same analysis for him that

15 I've set up for all the witnesses, but I'm not sure

16 I have questions. I'll try not to, but if I have

17 him, I'll --

18 MR. STRAUSS: Would you have a better idea

19 tomorrow whether you'll have questions for him?

20 JUDGE GILBERT: Yes.

21 MR. STRAUSS: Okay. Fair enough.

22 MR. MOORE: Your Honor, if Mr. Gennett is not

1 going to go on tonight, were we going to pick up
2 with him in the morning or will he wait until
3 Wednesday?

4 JUDGE MORAN: Well, a decision has to be made by
5 Judge Gilbert. So you will know --

6 JUDGE GILBERT: I think he should come back
7 Wednesday. That was the schedule. I'm not sure
8 why you're trying to change the schedule.

9 MR. FOSCO: The thought was we would run out
10 early, maybe, because the estimates were lower and
11 I think he was just --

12 JUDGE GILBERT: I understand why he's here today
13 and I appreciate that you brought him today; but if
14 he's not going today, he's going Wednesday.

15 MR. MOORE: Okay. Fair enough.

16 JUDGE MORAN: Okay. We have some redirect?

17 MR. RATNASWAMY: Yes.

18 JUDGE MORAN: Well, we could probably do it with
19 every witness until we know that there are
20 witnesses or not.

21 MR. RATNASWAMY: I lost my questions. All
22 right. I'm missing some of my questions, so I'll

1 try and get through some and find the rest.

2 JUDGE MORAN: Okay.

3 REDIRECT EXAMINATION

4 BY

5 MR. RATNASWAMY:

6 Q. All right. Mr. Borgard, if I could direct
7 your attention to Page 17 of your Peoples direct,
8 Lines 380 to 382.

9 Are you there?

10 A. Yes.

11 Q. Okay. And am I correct that that was your
12 intended definition of margin revenues there on
13 that page?

14 A. That is correct.

15 Q. All right. Now, when you get to Line 504,
16 I believe it is -- I'm sorry, 540, is it correct
17 that that's in the context of your discussion of
18 Rider VBA?

19 A. That is correct.

20 Q. All right. And does the company propose or
21 expect to recover all of its margin revenues
22 through the charges that are addressed by Rider

1 VBA?

2 A. Could you repeat the question?

3 Q. Let me try it from the other angle.

4 Does the company recover some of its

5 margin revenues through customer charges?

6 A. Yes.

7 Q. Okay. And are customer charges part of

8 Rider VBA?

9 A. No.

10 Q. Okay. So when you talk about recovery of

11 margin in the context of Rider VBA, you're talking

12 about some, but not all of the margin revenues?

13 A. That's correct.

14 Q. In Line 545 there's a reference to margin

15 recovery allowed by this Commission.

16 Do you see that?

17 A. Yes.

18 Q. All right. And there's a representation

19 there to, among other things, Mr. Feingold's direct

20 testimony?

21 A. Yes.

22 Q. Did you review -- I'm sorry.

1 Mr. Feingold's rebuttal testimony?

2 **A.** Yes.

3 **Q.** I'm having trouble finding -- let me see if
4 you remember without looking.

5 Do you recall Mr. Feingold's discussion
6 of how margin revenues relate to the revenue
7 requirement?

8 **A.** I believe it is that -- I'm paraphrasing
9 now, but I believe he said that margin revenues are
10 essentially the revenue requirement absent the
11 flow-through items.

12 MS. LUSSON: Absent what?

13 THE WITNESS: The flow-through items.

14 BY MR. RATNASWAMY:

15 **Q.** You were asked some questions by Ms. Lusson
16 about the effects of increased productivity and
17 technological improvements.

18 Do you remember those?

19 **A.** Yes.

20 **Q.** Are there other factors now in going
21 forward that effects -- that effect the level of
22 the company's operating expenses?

1 **A.** Sure.

2 **Q.** Does the company make purchases from
3 third-party suppliers?

4 **A.** Yes.

5 **Q.** Is the company affected by inflation?

6 **A.** Yes.

7 **Q.** Is the -- does the company incur costs in
8 order to comply with regulatory requirements?

9 **A.** Yes.

10 **Q.** Do those requirements change from time to
11 time?

12 **A.** Yes.

13 **Q.** Do the changes sometimes result in
14 increased costs?

15 **A.** More often than not they result in
16 increased costs.

17 **Q.** And if you were to continue, would you view
18 that there are other factors that affect the level
19 of the company's costs besides those that we've
20 just discussed?

21 **A.** Yes.

22 **Q.** And as you sit here right now, is there any

1 data at which you are aware in any witnesses'
2 testimony that would indicate -- sorry. Let me try
3 that again.

4 Are you aware of any evidence presented
5 by any witness that technological improvements that
6 increase productivity would result in a net
7 decrease in the company's costs going forward that
8 overcomes any other factors that affect its costs?

9 A. No.

10 MR. RATNASWAMY: I have no further questions.

11 JUDGE MORAN: Is there any recross?

12 Hearing nothing, thank you, Mr. Borgard,
13 and you are excused.

14 And I think it's great that we will
15 start tomorrow at 9:00 a.m. So everybody go home,
16 take a nap and see you in the morning.

17 MR. RATNASWAMY: Your Honor, may I make two
18 steps in a direction I think you want to go, which
19 is reducing the time for Wednesday?

20 JUDGE MORAN: Oh, okay.

21 MR. RATNASWAMY: I believe -- and that the
22 City -- unless they change their minds, I believe

1 the City is willing to waive their cross of
2 Mr. Hoover and Mr. Volante. And they were the only
3 party that were going to cross-examine them on
4 Wednesday.

5 JUDGE MORAN: Okay. That's great.

6 MR. RATNASWAMY: The utilities at this time are
7 reducing their estimate for Ms. Hathhorn from 30
8 minutes to 40 minutes. We had indicated that we're
9 willing to waive our cross of Mr. Gennett if there
10 is cross-examination by one of your Honors. I
11 don't know if --

12 JUDGE MORAN: I understand.

13 MR. RATNASWAMY: So assuming that, that will
14 aggregate half an hour off of Wednesday.

15 JUDGE MORAN: We might have to build up a little
16 more time for Witness Grace because some of these
17 questions that were not answered by the witnesses
18 today are going to be put to both Feingold and
19 Grace. So you almost have to build in a little
20 more time on those.

21 JUDGE GILBERT: Off the record for a moment.

22

1 (Whereupon, a discussion was had
2 off the record.)
3 (Whereupon, the above-entitled
4 matter was continued to.
5 September 11th, 2007, at.
6 9:00a.m.)

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